

# Michigan Register

Issue No. 1 – 2002 (Published February 1, 2002)



# GRAPHIC IMAGES IN THE MICHIGAN REGISTER

## COVER DRAWING

### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

## PAGE GRAPHICS

### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



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(This issue, published February 1, 2002, contains  
documents filed from January 1, 2002 to January 15, 2002)

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**John Engler, Governor**



**Dick Posthumus, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
  - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
  - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
  - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

#### **CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

#### **CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: [www.state.mi.us/orr](http://www.state.mi.us/orr)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director  
Office of Regulatory Reform



## 2002 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
2002		
1	January 15, 2002	February 1, 2002
2	February 1, 2002	February 15, 2002
3	February 15, 2002	March 1, 2002
4	March 1, 2002	March 15, 2002
5	March 15, 2002	April 1, 2002
6	April 1, 2002	April 15, 2002
7	April 15, 2002	May 1, 2002
9	May 1, 2002	May 15, 2002
9	May 15, 2002	June 1, 2002
10	June 1, 2002	June 15, 2002
11	June 15, 2002	July 1, 2002
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19	October 15, 2002	November 1, 2002
20	November 1, 2002	November 15, 2002
21	November 15, 2002	December 1, 2002
22	December 1, 2002	December 15, 2002
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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

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*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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**ORR # 1999-001**

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**EMPLOYMENT RELATIONS COMMISSION**

**GENERAL RULES**

Filed with the Secretary of State on January 8, 2002.

These rules take effect on February 1, 2002

(By authority conferred on the director of the department of consumer and industry services by sections 7, 9a, 9c, and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.9c, and 423.27, sections 12 and 14 of 1947 PA 336, MCL 423.212 and 423.214, and Executive Reorganization Order No. 1996-2, MCL 445.2001)

R 423.101, R 423.102, R 423.103, R 423.104, R 423.105, R 423.121, R 423.122, R 423.123, R 423.124, R 423.131, R 423.132, R 423.133, R 423.134, R 423.135, R 423.136, R 423.137, R 423.138, R 423.141, R 423.142, R 423.143, R 423.144, R 423.145, R 423.146, R 423.147, R 423.148, R 423.149, R 423.149a, R 423.149b, R 423.151, R 423.152, R 423.153, R 423.154, R 423.155, R 423.156, R 423.157, R 423.158, R 423.161, R 423.162, R 423.163, R 423.164, R 423.165, R 423.166, R 423.167, R 423.171, R 423.172, R 423.173, R 423.174, R 423.175, R 423.176, R 423.177, R 423.178, R 423.179, R 423.181, R 423.182, R 423.183, R 423.184, R 423.191, R 423.192, R 423.193, and R 423.194 are added to the Michigan Administrative Code, and R 423.401, R 423.403, R 423.405, R 423.407, R 423.411, R 423.421, R 423.422, R 423.423, R 423.431, R 423.432, R 423.433, R 423.434, R 423.435, R 423.441, R 423.442, R 423.443, R 423.444, R 423.445, R 423.446, R 423.447, R 423.448, R 423.449, R 423.450, R 423.451, R 423.452, R 423.453, R 423.454, R 423.455, R 423.456, R 423.461, R 423.462, R 423.463, R 423.464, R 423.465, R 423.466, R 423.467, R 423.468, R 423.469, R 423.470, R 423.471, R 423.472, R 423.481, R 423.482, R 423.483, and R 423.484 are rescinded as follows:

**PART 1. GENERAL PROVISIONS**

**R 423.101 Definitions; A to C.**

Rule 101. As used in these rules: (1) “Administrative law judge” means a commission member or an employee designated by the commission to perform hearing functions and duties under PERA and LMA in the commission’s labor relations division.

(2) “Applicant” means a person or duly authorized agent thereof who files an application for fact finding under PERA and LMA.

(3) “Charge” means the document containing the information specified in R 423.151.

(4) “Charging party” means a person, or duly authorized agent thereof, who files a charge alleging an unfair labor practice under LMA or PERA.

(5) “Commission” means the employment relations commission as established in section 3 of LMA.

**R 423.102 Definitions; E to L.**

Rule 102. As used in these rules: (1) “Election agent” means a commission member or an employee designated by the commission to perform election functions and duties under LMA and PERA.

(2) “Fact finder” means a commission member, an employee, or other individual, whether or not a member of the commission’s staff, designated by the commission to perform fact finding functions and duties under section 25 of LMA.

(3) “LMA” means 1939 PA 176, MCL 423.1 et seq.

**R 423.103 Definitions; M to P.**

Rule 103. As used in these rules: (1) “Mediator” means the commission, a commission member, or an employee designated by the commission to perform the functions and duties of mediation under LMA and PERA in the commission’s mediation division.

(2) “PERA” means the 1947 PA 336, MCL 423.201 et seq.

(3) “Petition” means the document containing the information specified in R 423.141.

(4) “Petitioner” means a person or duly authorized agent thereof who files a petition under LMA or PERA.

**R 423.104 Definitions; R.**

Rule 104. As used in these rules: “Respondent” means a person charged with having engaged in or engaging in unfair labor practices under LMA or PERA as set forth in a complaint issued by the commission.

**R 423.105 Division of commission.**

Rule 105. (1) The commission shall exercise its mediation functions under LMA and PERA through its mediation division.

(2) The commission shall exercise its labor relations functions under LMA and PERA through its labor relations division.

**PART 2. MEDIATION OF LABOR DISPUTES**

**R 423.121 Mediation functions.**

Rule 121. A mediator shall bring the parties together voluntarily under such favorable auspices as will tend to effectuate the settlement of the dispute; but the mediator shall not have any power of compulsion in mediation. At the request of 1 of the parties, or when the commission believes that mediation may be of assistance in resolving a dispute between either a public or private employer and employees, the commission on its own motion may, or at the direction of the governor shall, take steps that it deems expedient to effect a voluntary, amicable, and expeditious adjustment and settlement of the differences and issues between the employer and employees.

**R 423.122 Confidential information.**

Rule 122. Information disclosed by a party to a mediator in the performance of mediation functions shall not be divulged voluntarily or by compulsion. All files, records, reports, documents, or other papers received or prepared by a mediator while serving as a mediator shall be classified as confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by the mediator, on behalf of any party to any cause pending in any type of proceeding.

**R 423.123 Mediation conferences.**

Rule 123. (1) A mediator may hold separate or joint conferences with parties or their representatives, and the conferences shall be private unless otherwise mutually agreed by the parties and the mediator.

(2) A mediation conference may be conducted at a date, time, and place agreed to by a mediator and the parties or their representatives, except that the mediator may designate the date, time, and place of a conference.

**R 424.124 Strike elections.**

Rule 124. A strike election conducted by the commission pursuant to sections 9 and 9a of LMA shall be governed by the rules in part 4 insofar as applicable. Sections 9 and 9a shall be complied with as a condition to a strike election. Within 48 hours after the close of a strike election, excluding Saturdays, Sundays, and legal holidays, a party may file objections to the conduct of the election or to conduct improperly affecting the results of the election. Objections shall be in writing and shall contain a statement of facts and the reasons therefor upon which the objections are based. A signed original and 4 copies of the objections shall be filed with the commission, and the party filing objections shall at the same time serve a copy upon each of the other parties, with proof of service to the commission. This rule does not apply to public employees as defined in section 1(e) of PERA.

**PART 3. FACT FINDING**

**R 423.131 Definitions.**

Rule 131. As used in this part: (a) “Advocate” means an individual who has represented management or a union in the past 5 years before his or her appointment to the fact finder panel. Advocate also means an attorney who is associated with a firm that has represented management or a union in the past 5 years before his or her appointment to the fact finder panel.

(b) “Commission’s panel of fact finders” means those members who are appointed to the Michigan employment relations commission panel of fact finders by the commission.

(c) “Dispute” means a disagreement regarding mandatory subjects of bargaining concerning rates of pay, wages, hours of employment, or other conditions of employment.

**R 423.132 Petitions and initiation by commission of fact finding.**

Rule 132. (1) Pursuant to section 25 of LMA, a petition for fact finding may be filed by a public employer, a collective bargaining representative of public employees, or, if no representative has been designated or selected, by a majority of any given group of public employees. The petition shall be signed by an authorized agent of the petitioner. An original and 3 copies shall be filed with the commission and the petitioner shall serve a copy of the petition on the other party or its representative. Petitions for fact finding shall be filed in conformance with R 423.181 and service shall be in accord with R 423.182.

(2) The petition may be withdrawn by the applicant with the consent of the commission.

(3) The commission, on its own motion, may institute fact finding if it is apparent to the commission that matters in disagreement between the parties might be more readily settled if the facts involved in the disagreement were determined and publicly known. When the commission institutes fact finding, it shall so advise the parties.

**R 423.133 Contents of petitions.**

Rule 133. The petition shall contain all of the following information:



- (a) The name and address of the public employer involved and the name and telephone number of its principal representative.
- (b) The name and address of the collective bargaining representative involved; or, if there is no collective bargaining representative, the name and address of the principal representative of the majority of the members of a given group on whose behalf the petition is being filed.
- (c) A description of the certified or recognized collective bargaining unit, or, if there is no such unit, a description of the given group.
- (d) The approximate number of employees in the unit or given group.
- (e) Contract expiration date.
- (f) A statement that the applicant has attempted to engage in good faith collective bargaining and mediation and that the parties have not succeeded in resolving the matters in dispute.
- (g) A statement that the applicant has exhausted the contractual grievance procedure, if applicable.
- (h) A listing of any unresolved issue in dispute and the facts relating thereto.
- (i) A statement of reasons why publicizing the facts and recommendations would assist in resolving the issues in dispute.
- (j) If applicable, the name of the fact finder from the commission's panel of fact finders that the parties have mutually selected.
- (k) The name and address of the petitioner and the signature and telephone number of the persons executing the petition.

#### **R 423.134 Answers.**

Rule 134. (1) A party upon whom a petition has been served shall file an answer to the petition within 10 days from its service, unless notified by the commission that the circumstances require a specified shorter period of time to file an answer. Upon proper cause shown, the commission may extend the time for filing an answer, or, in exceptional circumstances, may waive the requirement for an answer.

(2) The answer shall specifically admit, deny, or explain each of the allegations in the petition, shall contain a statement of the position of the answering party, and shall be signed by the answering party or authorized agent thereof.

(3) The answer and 3 copies shall be filed with the commission. The party filing an answer concurrently shall cause a copy of the answer to be served on the petitioner or its agent, and proof of service shall be filed with the commission.

#### **R 423.135 Fact finder selection.**

Rule 135. (1) If a commission-nominated fact finder is an advocate, either party may notify the other party and then ask the commission to delete the fact finder's name from the list of nominees and provide the parties with the name of a fact finder who is not an advocate. The commission will provide the parties with another fact finder's name and resume. If a fact finder is not selected within 10 days, then the commission may select a fact finder.

(2) The parties may mutually agree upon the selection of a fact finder from the commission's panel of fact finders or a fact finder who is eligible for membership on that panel and notify the commission of their selection when the petition is filed.

(3) A fact finder's resume shall include all of the following information:

- (a) A brief summary of the fact finder's educational and professional background.
- (b) A list of the fact finder's past 5 years of employment.
- (c) A list of the fact finder's commission arbitration awards and fact finding reports.

(d) A list that shows the percentage of advocacy work, if any, which was performed by the fact finder and the fact finder's firm on an annual basis for the past 5 years.

**R 423.136 Hearings; fact finder powers.**

Rule 136. (1) If it appears to the commission that a hearing is warranted, then the commission shall appoint a fact finder and serve upon each of the parties a notice of the person appointed.

(2) A fact finder shall conduct a prehearing conference within 15 days of the fact finder's appointment. It may be conducted by telephone conference call. The commission may waive the requirement for a prehearing conference in exceptional circumstances. The fact finder shall also issue and serve, upon each of the parties, a notice of hearing. The fact finder may amend or withdraw a notice of hearing at any time before the close of the hearing.

(3) The hearing shall be public, but for good cause shown, may be limited to the immediate parties by the fact finder, who shall inquire into pertinent matters necessary to allow the issuance of recommendations concerning the dispute. The fact finder may follow the procedures of section 11 of LMA.

(4) No official record will be made unless the parties request one, in which case, the cost of a court reporter and any other costs associated with the preparation of the record shall fully be the responsibility of the parties.

(5) The fact finder has the authority and powers specified in part 7 of these rules.

(6) The fact finder also has the power to remand the parties to further bargaining with a mediator if the fact finder believes it may be conducive to full or partial agreement.

**R 423.137 Fact finders' reports.**

Rule 137. (1) After the close of the hearing, the fact finder shall prepare a fact finding report, which shall contain:

(a) The names of the parties.

(b) A statement of findings of fact and conclusions upon all material issues presented at the hearing.

(c) Recommendations with respect to the issues in dispute.

(d) Reasons and basis for the findings, conclusions and recommendations. However, the parties may waive the requirements of this subdivision and the fact finder may then issue a report containing only items set forth in subdivisions (a), (b) and (c) of this subrule.

(e) The date the report issued.

(f) The signature of the fact finder.

(2) The fact finder shall file the fact finding report and 6 copies with the commission in accordance with commission requirements and at the same time serve a copy on each of the parties.

**R 423.138 Costs.**

Rule 138. (1) The parties to a hearing may obtain information with regard to the per diem and other charges of the fact finder upon filing a request with the commission. A fact finder shall not charge more than 2 preparation days for each day of hearing.

(2) The costs of subpoenas and witness fees shall be borne by the party at whose request subpoenas are issued and at whose request witnesses appeared.

(3) A transcript of a deposition may be ordered at the expense of the party who ordered the transcript. The party who requests a deposition shall pay the costs for the court reporter and for a copy of the transcript of the deposition for the fact finding hearing record.

**PART 4. REPRESENTATION PROCEEDINGS**

**R 423.141 Petitions for elections.**

Rule 141. (1) A petition for election to determine a collective bargaining representative or a petition for decertification of a collective bargaining representative shall be prepared on a form furnished by the commission. An original and 4 copies of the petition shall be filed with the commission in accord with section 14 of PERA, section 29 of LMA, and subrule (3) of this rule.

(2) A petition for an election to determine the collective bargaining representative or for decertification shall include, insofar as known, at least all of the following information:

- (a) The name of the employer.
- (b) The address of the establishment involved.
- (c) A description of the bargaining unit claimed to be appropriate.
- (d) The name and address of persons or labor organizations who claim to represent employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in the unit.
- (e) The number of employees in the alleged appropriate unit.
- (f) The name, affiliation, if any, and address of the petitioner.
- (g) Any other relevant facts.
- (h) Signature of petitioner or its duly authorized agent if filed by an employer.
- (i) A statement that 1 or more individuals or labor organizations have presented a claim to be recognized as the bargaining representative.

(3) Where there is a collective bargaining agreement covering employees in the bargaining unit, a petition for election may be filed during the following periods:

- (a) Where the petition covers employees of a public school district or public educational institution and the expiration date of the collective bargaining agreement falls between June 1 and September 30, a petition may be filed between January 2 and March 31 of the year in which the collective bargaining agreement expires.
- (b) Where the petition covers public employees other than those described in subdivision (a) of this subrule, a petition shall not be filed sooner than 150 days and not later than 90 days before the expiration date of the collective bargaining agreement.
- (c) Where the petition covers private employees under the LMA, a petition shall not be filed sooner than 90 days and not later than 60 days before the expiration date of the collective bargaining agreement.

**R 423.142 Petitions for self-determination elections.**

Rule 142. (1) A petition for an election to determine whether existing bargaining units represented by a single labor organization should be merged may be filed by the labor organization representing these units. A petition for a self-determination election shall be prepared on a form furnished by the commission.

(2) A petition for a self-determination election shall include at least all of the following information:

- (a) The name of the employer.
- (b) The address of the establishment involved.
- (c) Descriptions of the bargaining units sought to be merged.
- (d) The approximate number of employees in each existing unit.
- (e) A statement that the petitioner is the currently recognized bargaining representative for the units in question.
- (f) The name, affiliation, if any, and address of the petitioner.
- (g) Any other relevant facts.
- (h) Signature of petitioner or its duly authorized agent.

**R 423.143 Petitions for unit clarification.**

Rule 143. (1) A petition to determine the unit placement of a disputed position or classification may be filed by the employer or by a labor organization representing an existing bargaining unit. A petition for unit clarification shall be prepared on a form furnished by the commission.

(2) A petition for unit clarification shall include at least all of the following information:

(a) The name of the employer.

(b) The employer's address.

(c) The position or positions whose unit status petitioner seeks to have clarified.

(d) The clarification sought, and a statement of the reasons set out in detail, including the approximate date (or dates) the position or positions were created or substantially changed if applicable.

(e) Whether the positions whose status is to be clarified are currently included in any bargaining unit, and, if so, a description of that unit and the name of the labor organization currently representing that unit.

(f) A description of any bargaining unit that may be affected.

(g) The name, affiliation if any, and address of the petitioner.

(h) Any other relevant facts.

(i) Signature of petitioner or its duly authorized agent.

#### **R 423.144 Investigation of petitions; consent election agreements.**

Rule 144. The commission or its election agent shall investigate the petition. If it appears that there is reasonable cause to believe that a question concerning representation exists, then the petitioner and the other parties may, with the approval of the commission or its election agent, enter into a consent election agreement on a form furnished by the commission. The agreement shall include a description of the appropriate bargaining unit, the payroll period to be used in determining the employees within the appropriate unit who shall be eligible to vote, and such other matters as the commission considers appropriate. The time and place of the election shall be determined by the commission or its election agent after consultation with the parties.

#### **R 423.145 Showing of interest; intervenors.**

Rule 145. (1) A petition for an election to determine a collective bargaining representative, except when filed by an employer, or a decertification petition shall be supported by a showing of interest existing at the time of the filing of the petition of 30% of the employees in the unit claimed to be appropriate. A showing of interest is not required for a self-determination election petition.

(2) Evidence of interest shall be submitted at the time of filing a petition. Unless an original showing of interest is received within 48 hours of the filing, the petition will be dismissed.

(3) An employee, group of employees, individual, or labor organization which makes a showing of interest not less than 10% of the employees within the unit claimed to be appropriate may intervene in the proceedings and attend and participate in all conferences and any hearing that may be held. The signature of an intervenor is not required on a consent election agreement unless the intervenor demonstrates to the commission that 30% or more of the employees in the unit claimed to be appropriate wish to be represented by the intervenor, in which event, the intervenor's signature on the consent election agreement is required. The determination with respect to the statutory 30% or an intervenor's 10% showing of interest is an administrative action and shall be made exclusively by the commission or its agent. Once a consent election agreement has been signed by all required parties known to the commission, an interested party shall file a written request to intervene and provide a showing of interest within 2 business days of the date of the consent. The date of the consent is the date on which the last required signed copy of the consent agreement is received by the commission. Intervention may be permitted after 2 business days with the agreement of all parties and the approval of the commission or its agent or with the approval of the commission upon a showing of good cause. An intervenor who has not less

than a 10% showing of interest but less than 30%, may file a motion with the commission and serve a copy on each of the other parties within 48 hours after a consent election agreement is signed alleging reasons for disallowance of the consent election agreement and requesting a hearing. The commission or its agent shall determine whether the petition establishes good cause for holding a hearing. If the commission or its agent decides that a hearing should be held on the petition, then the consent election agreement shall be suspended pending disposition of the case by the commission.

(4) Intervention will not be allowed after the close of the hearing without the agreement of all parties and the approval of the commission or its agent, or the approval of the commission upon a showing of good cause.

#### **R 423.146 Hearing on election petition.**

Rule 146. (1) If a consent election agreement is not executed by the required parties, the petition for election shall be referred to an administrative law judge, who, after due notice, shall hold a hearing for the purpose of gathering facts on the matters in dispute. R 423.171, R 423.172, R 423.173, and R 423.174 apply to all hearings conducted under this rule. A notice of hearing shall be served upon all interested parties including any intervenor. The notice shall set the time, date, and place of the hearing, and, unless by agreement of the parties or in case of special circumstances, the time shall be not less than 5 days after service of the notice.

(2) In appropriate cases, the commission or its agent may consolidate representation and unfair labor practice proceedings for hearing and decision.

(3) After the hearing closes, the commission shall determine the matters in dispute and direct an election, dismiss the petition, or make other disposition of the matter as the commission deems appropriate. The commission may reopen a proceeding in accord with R 423.166 or R 423.167.

(4) If a motion for reconsideration or rehearing of a commission order directing an election is filed, then the commission, during its consideration of the motion, shall proceed to conduct the election in accord with its original direction, count the ballots and issue a certification of results or representation unless and until a party makes a written request to stay the election or impound the ballots, or both, and the commission determines that it would not effectuate the purpose of the statute to conduct an election or count the ballots, or both, while the motion is pending.

(5) If an appeal of a commission order directing an election is filed with a court, then the commission shall proceed to conduct the election in accord with its original direction, count the ballots, and issue a certification of results or representative unless and until a stay is issued by the court.

#### **R 423.147 Elections; general procedures.**

Rule 147. (1) An election shall be conducted under the supervision and direction of an election agent and shall be by secret ballot.

(2) Not less than 7 days before the date of an election, or the date of the mailing of the ballots in a mail ballot election, excluding Saturdays, Sundays, and legal holidays, the employer shall submit to the commission and other interested parties a list of the names and addresses of all eligible voters in alphabetical order. This requirement may be modified by mutual agreement of the parties, or by order of the commission, or its agent.

(3) A sample ballot and notice of election, setting forth the date, time, place, and purpose of the election shall be posted in a prominent place or places, as the commission or its election agent shall determine, in the employer's establishment, not less than 5 days before the date of the election, or the date of the mailing of the ballots in a mail ballot election, unless modified by mutual agreement of the parties or by order of the commission or its agent.

(4) The commission may conduct an election in whole or in part by mail ballot by mutual agreement of the parties, by order of the commission, or by determination of its agent after consultation with the parties.

**R 423.148 Observers and challenges.**

Rule 148. (1) The parties to the election may each designate a representative, but not a supervisor or full-time labor organization representative unless by mutual agreement of the parties, to observe that ballots are properly cast and votes properly counted. Observers are subject to such reasonable limitations as the election agent may prescribe.

(2) An authorized observer, the commission, or the election agent, before the time the voter's ballot is cast, or before the time the ballots are counted in the case of a mail ballot election, may challenge for good cause the eligibility of any person to participate in the election. A person challenged as an ineligible voter shall be permitted to vote in secret, and the election agent shall set aside the ballot, with appropriate markings. If it is determined by the commission or its election agent that the challenged ballot, or ballots, is decisive of the result, then the commission shall determine the merits of any challenged ballot and decide whether or not the person is an eligible voter.

**R 423.149 Ballot boxes and ballots.**

Rule 149. (1) Ballot boxes shall be examined before the opening of the polls, in the presence of the observers, and shall be sealed at the opening of the polls.

(2) The election agent shall privately assist any voter in marking a ballot when the voter states under oath, duly administered by the election agent, that the voter is incapable of marking the ballot because of physical disability or inability to read or write.

(3) A voter shall designate a choice on the ballot by making a cross (X) or check mark (✓) in the selected circle or block. The intent of the voter shall be followed in the marking of the ballot. If the ballot is defaced, torn, marked in a manner that is not understandable, or identifies the voter, then the ballot shall be declared void. If a ballot is inadvertently spoiled by a voter, it may be returned to the election agent, who shall deliver another ballot. The spoiled ballot shall be preserved for the time of counting.

(4) A voter shall fold the ballot so that no part of its face is exposed, and, on leaving the polling booth, shall personally deposit the ballot in the ballot box. If the election is continued for more than 1 period, the ballot box shall remain sealed until the subsequent opening of the polls, and shall so remain in possession of the election agent until time for the counting of the ballots.

(5) An absentee ballot shall be mailed to an individual eligible to vote upon written notice to the commission of inability to be present at the election because of either sickness or physical disability, or upon the agreement of the parties to the election with the approval of the election agent. The voted ballot shall be mailed or delivered by the absentee voter to the election agent in the official envelopes provided for this purpose. The envelopes containing the ballot shall be opened at the time of the counting of the ballots and placed in the ballot box. The ballot shall be in possession of the election agent before closing of the election at the place of balloting in order to be counted.

(6) In a mail ballot election, to be valid, each voted ballot shall be personally and individually mailed or delivered by the voter to the election agent in the official envelopes provided for this purpose.

**R 423.149a Counting of ballots; election results.**

Rule 149a. The election agent shall count the ballots as soon after the polls have closed as practicable. The election agent shall announce the results of the election as soon as the complete results have been tabulated. The election agent shall furnish to the parties a tabulation of results signed by the observers and the election agent. The commission shall furnish the parties with a certification of representative or results.

**R 423.149b Objections to elections; rerun and runoff elections.**

Rule 149b. (1) Within 5 days after the election results have been tabulated and furnished to the parties, excluding Saturdays, Sundays, and legal holidays, an interested party may file objections to the conduct of the election or to conduct improperly affecting the results of the election. Objections shall be in writing and shall contain a statement of facts upon which the objections are based and the reasons for the objections. A signed original and 4 copies of the objections shall be filed with the commission, and the party filing objections shall at the same time serve a copy upon each of the other parties to the election with proof of service to the commission.

(2) R 423.171, R 423.172, R 423.173, and R 423.174 shall apply to all hearings conducted under this rule. After the close of the hearing, the commission shall issue its decision with regard to the challenges or objections, or both.

(3) If the commission orders that any challenged ballots be opened and counted, an amended tabulation of election results and an appropriate certificate of results of the election shall be issued.

(4) If the commission sustains objections to an election, it may direct a new election, to be held at such time and under such circumstances and conditions as it deems appropriate. For a runoff or rerun election, the commission may maintain the same eligibility date or establish a new eligibility date for voters.

(5) A runoff election shall be conducted without further order of the commission when an election in which the ballot provided for fewer than 3 choices (for example, at least 2 representatives and “neither”) resulted in no choice receiving a majority of the valid votes cast and no objections are filed as provided in this rule.

(6) Employees who were eligible to vote in the election and who are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(7) The ballot in the runoff election shall provide for a selection between the 2 choices receiving the largest and second largest number of valid votes cast.

(8) Upon the conclusion of the runoff election, this rule shall govern, insofar as applicable.

**PART 5. UNFAIR LABOR PRACTICE CHARGES**

**R 423.151 Filing, contents, and service.**

Rule 151. (1) A charge that a person has engaged in or is engaging in an unfair labor practice in violation of LMA or PERA, may be filed with the commission. The charge shall, except for good cause shown, be prepared on a form furnished by the commission. An original and 4 copies of the charge shall be filed with the commission.

(2) A charge shall include, insofar as known, all of the following information:

(a) The name, mailing address, affiliation or title, if any, and signature of each charging party.

(b) The name and mailing address of each charged party.

(c) A clear and complete statement of the facts which allege a violation of LMA or PERA, including the date of occurrence of each particular act, the names of the agents of the charged party who engaged therein and the sections of LMA or PERA alleged to have been violated.

(d) Any other information requested on the form furnished by the commission.

(3) The commission may reject a charge for failure to include the required information.

(4) Upon filing of a charge, the charging party or parties shall be responsible for the timely and proper service of a copy thereof upon the charged party or parties against whom the charge is made as prescribed in R 423.182.

(5) Filing and service shall be effected within the applicable period of limitations.

**R 423.152 Complaint.**

Rule 152. After a charge is filed, the commission or an administrative law judge designated by the commission may serve upon each named respondent a complaint, a copy of the charge upon which the complaint is based, and a notice of hearing, or, at the discretion of the commission or administrative law judge, a complaint, a copy of the charge upon which the complaint is based, and a notice of prehearing conference. The notice of hearing shall fix the place of hearing at a time not less than 14 days from service thereof. The notice of prehearing conference shall fix the time, date and place of prehearing conference at a time not less than 14 days from service thereof. The commission or administrative law judge designated by the commission may effectuate service of these documents by facsimile transmission with the permission of the person receiving the documents.

**R 423.153 Amendments to charges.**

Rule 153. (1) The charging party may file an amended charge before, during, or after the conclusion of the hearing. All amendments made before or after hearing shall be in writing and shall, except for good cause shown, be prepared on a form furnished by the commission. An original and 4 copies of the amended charge shall be filed with the commission and a copy served on each party. Amendments made at hearing shall be made in writing to the administrative law judge or stated orally on the record.

(2) Where an amendment is made in writing, each respondent may file with the commission a signed original and 4 copies of an objection to the amended charge within 10 days after receipt thereof, and at the same time shall serve a copy of the objection on each party.

(3) If objection to the amended charge is not filed or stated orally on the record, then the commission or administrative law judge designated by the commission may permit the amendment upon such terms as are just and consistent with due process.

**R 423.154 Withdrawal of charges.**

Rule 154. (1) The charge may be withdrawn by the charging party at any time before the issuance of a proposed decision and recommended order upon approval by the administrative law judge, subject to review by the commission. Any party seeking commission review of an order granting withdrawal must file an objection within 10 days after the issuance of the order granting withdrawal.

(2) The charge may be withdrawn by the charging party following the issuance of a proposed decision and recommended order upon approval by the commission.

**R 423.155 Answers.**

Rule 155. (1) Each respondent may file with the commission a signed original and 4 copies of an answer to the complaint and attached charge within 10 days after receipt thereof, and at the same time shall serve a copy of the answer on each party. Upon good cause shown, the commission or administrative law judge designated by the commission may grant an extension of time in which to file the answer. Failure to file an answer shall not constitute an admission of any fact alleged in the charge, nor shall it constitute a waiver of the right to assert any defense.

(2) The answer shall include a specific admission, denial, or explanation of each allegation of the complaint and attached charge, or if the respondent is without knowledge thereof, it shall so state and the statement shall operate as a denial. An admission or denial may be to all or any part of any allegation, but shall fairly meet the substance of the allegation. The answer shall include a specific, detailed statement of each affirmative defense.

**R 423.156 Amendments to answers.**



Rule 156. (1) The commission or administrative law judge designated by the commission may permit a respondent to amend the answer before or during the hearing, or at any time prior to issuance of the administrative law judge's recommended order, within a period of time fixed by the administrative law judge.

(2) An original and 4 copies of the amended answer shall be filed with the commission and a copy served on each party.

**R 423.157 Joinder of parties.**

Rule 157. Persons having such an interest in the subject of the action that their presence in the action is essential to permit the commission to render complete relief shall be made parties and aligned as charging parties or respondents in accordance with their respective interests. If the persons have not been made parties, then the commission or administrative law judge shall, on motion of either party, order them to appear in the action, and may prescribe the time and order of pleading.

**R 423.158 Prehearing conference.**

Rule 158. The commission or an administrative law judge designated by the commission may direct the parties to appear for a prehearing conference. The prehearing conference may resolve any matter upon which the parties agree or which the commission or administrative law judge may determine is proper for resolution.

**PART 6. MOTION PRACTICE**

**R 423.161 General provisions.**

Rule 161. (1) An application to the commission for an order other than that sought for by the unfair labor practice charge shall be by motion. Examples of such motions are set forth in R 423.162 to R 423.167.

(2) All motions made before or after hearing shall be in writing and shall state with particularity the grounds upon which the motion is based and the relief sought. A motion that presents an issue of law shall be accompanied by a brief citing the authority on which it is based. All motions and briefs made before the hearing shall be served as provided in R 423.182.

(3) Each adverse party may file a written brief in opposition to any motion made before or after hearing. The brief shall be filed within 10 days after service of the motion, or within any other period as specified by the commission or administrative law judge designated by the commission, and served as provided in R 423.182.

(4) Unless otherwise ordered by the commission or administrative law judge, all motions made before or after hearing shall be ruled upon without notice or oral argument. A request for oral argument may be made by the moving party by separate statement at the end of the motion as filed, or by an opposing party by a separate pleading filed within 10 days after service of the motion, or within any other period as designated by the commission or administrative law judge designated by the commission. If the request is granted, the commission or administrative law judge designated by the commission will serve a notice of hearing upon all parties.

(5) All motions made at hearing shall be made in writing to the administrative law judge or stated orally on the record.

(6) Rulings by an administrative law judge on any motion, except a motion resulting in a ruling dismissing or sustaining the unfair labor practice charge in its entirety, shall not be appealed directly to the commission, but shall be considered by the commission only if raised in exceptions or cross exceptions to the proposed decision and recommended order filed under R 423.176.

**R 423.162 Motion for more definite statement.**

Rule 162. If a respondent alleges that an unfair labor practice charge is so vague or ambiguous that it cannot reasonably be required to frame an answer, then the respondent, after service of the complaint and attached charge, may file a motion with the administrative law judge for a more definite statement and, at the same time, shall serve a copy thereof on the charging party. The administrative law judge shall rule on the motion. The request may be granted on good cause shown.

**R 423.163 Motion to strike.**

Rule 163. The commission or administrative law judge designated by the commission may, on its own motion or on a motion by any party, order stricken from the pleadings redundant, immaterial, impertinent, scandalous, or indecent matter or may strike all or part of a pleading not drawn in conformity with these rules.

**R 423.164 Motion to consolidate or sever.**

Rule 164. The commission or administrative law judge designated by the commission may, on its own motion or on a motion by any party, order that a charge and any proceeding which may have been initiated with respect thereto, be consolidated with any other proceeding which may have been instituted thereto, or be severed from any other proceeding with which it may have been consolidated pursuant to this section. The commission or administrative law judge designated by the commission shall grant such motion if the consolidation or severance will promote the just, economical, and expeditious determination of the issues presented.

**R 423.165 Motion for summary disposition.**

Rule 165. (1) The commission or administrative law judge designated by the commission may, on its own motion or on a motion by any party, order dismissal of a charge or issue a ruling in favor of the charging party. The motion may be made at any time before or during the hearing.

(2) A motion for summary disposition made under this rule may be based upon 1 or more of the following reasons:

- (a) The commission lacks jurisdiction over a party.
- (b) The commission lacks jurisdiction over the subject matter of the charge.
- (c) The charge is barred because of the expiration of the applicable period of limitations.
- (d) The charging party has failed to state a claim upon which relief can be granted.
- (e) The respondent has filed an answer under R 423.155, which fails to state a valid defense to the charge.
- (f) Except as to the relief sought, there is no genuine issue of material fact.
- (g) The charge has been abandoned for failure to appear for hearing or prehearing conference.

(3) If the motion for summary disposition is filed before the hearing, then the commission or administrative law judge designated by the commission may issue an order to the nonmoving party to show cause why summary disposition should not be granted. If a response to the order is not filed in a timely manner, then the motion shall be considered and decided without oral argument.

(4) If the motion for summary disposition is denied, or if the proposed decision and order does not dispose of the entire action or grant all of the relief demanded, then the action shall proceed to hearing according to part 7 of these rules.

**R 423.166 Motion for reopening of the record.**

Rule 166. (1) A party to a proceeding may move for reopening of the record following the close of a hearing conducted under Part 7 of these rules. A motion for reopening of the record will be granted only upon a showing of all of the following:

- (a) The additional evidence could not with reasonable diligence have been discovered and produced at the original hearing.
- (b) The additional evidence itself, and not merely its materiality, is newly discovered.
- (c) The additional evidence, if adduced and credited, would require a different result.
- (2) Any motion pursuant to this rule shall be filed not later than 21 days after the issuance of the commission's final order.

**R 423.167 Motion for reconsideration.**

Rule 167. A party to a proceeding may move for reconsideration after a decision and order is issued by the commission. A motion for reconsideration shall state with particularity the material error claimed and, with respect to any finding of material fact, shall specify the page of the record relied upon. Generally, and without restricting the discretion of the commission, a motion for reconsideration which merely presents the same issues ruled on by the commission, either expressly or by reasonable implication, will not be granted. Any motion pursuant to this rule shall be filed not later than 20 days after the issuance of the commission's final order. The filing and pendency of a motion under this rule shall not operate to stay the effectiveness of the action of the commission unless so ordered.

**PART 7. HEARINGS**

**R 423.171 General provisions.**

- Rule 171. (1) A hearing for the purpose of taking evidence upon a petition or complaint and attached charge shall be conducted by the commission or administrative law judge designated by the commission. The hearing shall be public unless otherwise ordered by the commission or administrative law judge for good cause shown.
- (2) A party may appear at a hearing in person, by counsel, or by other representative; may call, examine, and cross-examine witnesses; and may introduce into the record documentary or other evidence.
  - (3) Stipulations of fact may be introduced into evidence at a hearing with respect to any issue at the discretion of the commission, administrative law judge, or fact finder.
  - (4) An objection to conduct of a hearing, including an objection to introduction of evidence, may be oral or written, and be accompanied by a short statement of the grounds to the objection, and shall be included in the record.
  - (5) Witnesses subpoenaed before the commission, administrative law judge, or fact finder shall be paid the same fees and mileage that are paid to witnesses in the circuit courts of the state. This payment shall be made by the party at whose request the witness appears and shall be tendered before the time the witness testifies.

**R 423.172 Duties and powers of administrative law judge or fact finder.**

- Rule 172. (1) An administrative law judge or fact finder shall inquire fully into the facts involved in the proceeding before him or her.
- (2) An administrative law judge or fact finder has the power to do all of the following:
    - (a) Hold pretrial conferences for settlement or clarification of the issues.
    - (b) Dispose of procedural requests, motions, or similar matters.
    - (c) Continue or adjourn a hearing to a later date.
    - (d) Take or cause depositions to be taken when the ends of justice would be served thereby.
    - (e) Grant applications for subpoenas, subpoena witnesses, administer oaths and affirmations, examine witnesses, receive relevant testimony and evidence, rule upon offers of proof, and introduce into the record documentary or other relevant evidence.

- (f) Regulate the course of a hearing and, if appropriate or necessary, exclude persons or counsel from the hearing for contemptuous conduct.
- (g) Order a hearing reopened before issuance of an administrative law judge's recommended order or fact finder's report.
- (h) Take official notice of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either generally recognized or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- (i) Take official notice of common law, administrative law, constitutions, public statutes, private acts, resolutions of public bodies, ordinances, and regulations.
- (j) Take any other action necessary and authorized by rules of the commission.

**R 423.173 Oral argument and briefs.**

Rule 173. A party is entitled upon request to a reasonable period at the close of the hearing for oral argument, which shall be made part of the record. A party is entitled, upon request made before the close of the hearing, to file a brief with the administrative law judge, who may fix a reasonable time for the filing. The commission or administrative law judge may direct the filing of briefs when the filing is, in the opinion of the commission or administrative law judge, warranted by the nature of the proceedings or the particular issues involved.

**R 423.174 Substitution of administrative law judges.**

Rule 174. If an administrative law judge designated to conduct a hearing becomes unavailable after the hearing has been opened or concluded, the commission or an employee designated by the commission may transfer the case to another administrative law judge for purpose of further hearing or issuance of the decision and recommended order, or both, on the record as made.

**R 423.175 Unfair labor practice case recommended decisions and orders.**

Rule 175. In an unfair labor practice case, the administrative law judge shall prepare a recommended decision and order setting forth findings of fact, conclusions of law, and the reasons for his or her determination on all material issues. The administrative law judge may recommend dismissal or sustain the complaint and attached charge, in whole or in part, and recommend that respondent cease and desist from the unlawful acts found and take action to remedy their effects, including reinstatement of employees with or without back pay, as appropriate.

**R 423.176 Exceptions to administrative law judge's decision and recommended orders; cross exceptions; brief in support.**

Rule 176. (1) Any party may file written exceptions to the decision and recommended order of the administrative law judge, or to any other part of the record or proceedings, including rulings upon motions or objections, and a brief in support thereof. An original and 4 copies of the exceptions and brief, along with 2 copies of each exhibit, if any, submitted at hearing, shall be filed with the commission. At the same time, copies of the exceptions and brief shall be served on each party to the proceedings.

(2) Exceptions shall be filed within 20 days of service of the decision and recommended order.

(3) Exceptions shall be in compliance with all of the following provisions:

(a) Set forth specifically the question of procedure, fact, law, or policy to which exceptions are taken.

(b) Identify that part of the administrative law judge's decision and recommended order to which objection is made.

(c) Designate, by precise citation of page, the portions of the record relied on.

- (d) State the grounds for the exceptions and include the citation of authorities, if any, unless set forth in a supporting brief.
- (4) A brief in support of exceptions shall contain only matter included within the scope of the exceptions and shall contain, in the sequence indicated, all of the following:
  - (a) A title page, stating the full title of the case, including the name of the administrative law judge and the case number.
  - (b) An index of authorities, listing, in alphabetical order, all case authorities cited, with the complete citations including the years of decision, and all other authorities cited, with the number of the pages where they appear in the brief.
  - (c) A statement of the questions involved and to be argued.
  - (d) A clear and concise statement of facts. All material facts, both favorable and unfavorable, shall be fairly stated without argument or bias. The statement shall contain specific page references to the transcript and the legal or other material relied on.
  - (e) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page references to the transcript and the legal or other material relied on.
- (5) An exception to a ruling, finding, conclusion, or recommendation that is not specifically urged is waived. An exception that fails to comply with this rule may be disregarded.
- (6) Within 10 days after service of exceptions, a party may file 1 original and 4 copies of cross exceptions and briefs in support thereof, or 1 original and 4 copies of a brief or legal memorandum in support of the decision and recommended order. Copies of these documents shall be served on each party to the proceedings.
- (7) An amicus curiae brief may be filed on motion granted by the commission. The motion shall be filed within 20 days after the brief in support of the decision and recommended order is filed. If the motion is granted, the order will state the date by which the brief shall be filed. The brief is limited to the issues raised by the parties.
- (8) A request for extension of time in which to file exceptions, cross exceptions or briefs in support of the decision and recommended order shall be filed in writing and filed with the commission before expiration of the required time for filing. At the same time, copies of the request for extension shall be served on each of the other parties. One extension of not longer than 30 days will be granted to the moving party upon the filing of the request. Subsequent extensions will be granted only upon a showing of good cause. Good cause does not include inexcusable neglect by a party or a representative thereof.
- (9) The commission may, on its own motion, reopen a record in any case and receive further evidence, may close the case upon compliance with the administrative law judge's recommended order, or may make other disposition of the case.

#### **R 423.177 Compliance.**

- Rule 177. (1) If, at any time after entry of a commission order or entry of a final court judgment enforcing a commission order, a controversy exists between the parties concerning compliance with the order which cannot be resolved without a formal proceeding, the prevailing party may request that the commission conduct a hearing on such issues. An original and 4 copies of a request shall be filed with the commission, together with a proof of service of a copy on all other parties, as prescribed in R 423.181 and R 423.182.
- (2) If the controversy concerns the amount of back pay due, then the request for compliance shall specifically and in detail show, for each employee, the back pay periods broken down by calendar quarters, the specific figures and basis of computation of gross back pay, and the interim earnings and expenses for each quarter, the net back pay due, and any other pertinent information.

(3) If the controversy concerns matters other than the amount of back pay due, then the request shall contain a clear and concise description of the respects in which the respondent has failed to comply with a commission or court order, including the remedial acts claimed to be necessary for compliance by the respondent.

(4) Each respondent alleged in the request to have compliance obligations shall, within 10 days of service on it of the request, file an original and 4 copies of an answer thereto with the commission, together with proof of service of copies of such documents on all other parties. The answer shall specifically admit, deny, or explain each and every allegation set forth in the request, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross back pay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the request or the premises upon which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(5) If the respondent fails to file any answer to the request within the time prescribed by this rule, then the commission may, either with or without taking evidence in support of the allegations set forth in the request for compliance and, without further notice to the respondent, enter an appropriate order. If the respondent files an answer to the specification but fails to deny any allegation set forth in the request in the manner required by subrule (4) of this rule, and the failure to deny is not adequately explained, then such allegation shall be deemed to be admitted to be true, and may be found by the commission without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting the allegation.

(6) Upon proper cause shown by any party, the commission may by written order extend the time within which the answer to the request for compliance shall be filed.

(7) After the filing of a request for compliance and the issuance of a notice of hearing, the procedures provided in part 7 shall be followed insofar as applicable.

#### **R 423.178 Oral argument before the commission.**

Rule 178. If a party desires to argue orally before the commission, a written request shall accompany the exceptions, cross exceptions, or the brief in support of the decision and recommended order, and at the same time, the request shall be served on all other parties. The commission, on its own motion, may also direct oral argument. The commission shall notify the parties of the time and place of oral argument. The commission may limit the time for oral argument by each party.

#### **R 423.179 Commission action.**

Rule 179. Upon the filing of exceptions or cross exceptions, the commission may adopt, modify, or reverse the administrative law judge's decision and recommended order, or grant such other relief as the commission deems necessary to effectuate the purposes of the act.

### **PART 8. FILING AND SERVICE OF DOCUMENTS**

#### **R 423.181 Filing of documents and other pleadings.**

Rule 181. (1) "Filing" of a document, pleading, or other paper with the commission is considered complete on the date it is delivered to any office of the commission and received and accepted by the commission, administrative law judge, or other agent designated to receive the document, with the intent to enter it in the record. Filing may be accomplished by hand delivery, registered, certified or regular mail, private delivery

service, or any other means specifically authorized by the commission or an administrative law judge designated by the commission.

(2) When LMA, PERA, or any of these rules require the filing of an original and extra copies of a document, filing is considered complete on the date a copy is filed, but the original and remaining copies shall be filed within 5 business days.

**R 423.182 Service of documents and other pleadings.**

Rule 182. (1) Service on any party or parties, other than the commission, of any document authorized or required by LMA, PERA, or these rules, except service required by section 9 of LMA, may be effected by hand delivery, registered, certified or regular mail, private delivery service, or by leaving a copy thereof at the principal office or place of business of the person required to be served. With the permission of the person receiving the charge, service may be made by facsimile transmission or by any other agreed-upon method. Service required by section 9 of LMA shall be made as prescribed therein.

(2) Where service of any document or pleading, other than an unfair labor practice charge filed under R 423.151, is effected by mail or private delivery service, the date of service is the date of deposit with the United States post office or other carrier. For service of an unfair labor practice charge filed under R 423.151, or where service of any document or pleading is effected by hand, by facsimile transmission, or by any other method authorized by these rules, the date of service is the date of receipt.

(3) The person or party serving the papers or process on other parties in conformance with this rule shall submit a written statement of service thereof to the commission or administrative law judge designated by the commission stating the names of the parties served and the date and manner of service. The statement of service may be included at the end of the document as filed. Failure to submit the statement of service will not affect the validity of service.

(4) If, subsequent to the receipt of the statement of service, a question is raised with respect to proper service, then the person or party serving the papers or process on other parties in conformance with this rule shall submit a proof of service. When service is made by registered or certified mail, the return post office receipt shall be proof of service. When service is made by private delivery service, the receipt from that service showing delivery shall be proof of service. When service is made in any other manner authorized by these rules, verified proof of service shall be made by oath or affirmation of the person or party serving the papers or process. Disputes with respect to proper service will be resolved by the commission or administrative law judge designated by the commission.

(5) The commission or administrative law judge designated by the commission may decline to consider any document or pleading not served in accordance with these rules. The commission or administrative law judge designated by the commission shall decline to consider any unfair labor practice charge filed under R 423.151 that is not served within the applicable period of limitations.

**R 423.183 Computation of time.**

Rule 183. In computing any period of time prescribed or allowed by LMA, PERA, or these rules, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday, nor legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to do some act within a prescribed period after being served with a document or pleading by mail, 3 days shall be added to the prescribed period. However, 3 days shall not be added if any extension of time has been granted.

**R 423.184 Form and style of motions and briefs.**

Rule 184. (1) Motions and briefs filed with the commission or an administrative law judge designated by the commission shall be typewritten on 1 side only of 8 ½ by 11-inch plain white paper, shall have margins not less than 1 inch on each side, shall be in a typeface no smaller than 12 characters-per-inch, and shall be double-spaced, except that quotations and footnotes may be single-spaced. Except as permitted by order of the commission or an administrative law judge designated by the commission, motions and briefs are limited to 50 pages, exclusive of tables, indexes, and appendixes.

(2) The original of all motions and briefs shall be firmly bound with 1 staple in the upper left hand corner or secured with metal fasteners through a standard 2-hole punch perforation at the top. No other method of securing original motions and briefs is acceptable. Copies of motions and briefs may be secured in any format.

(3) The first page of each motion and brief shall bear the caption, case number or numbers, and name of the administrative law judge to whom the case is assigned, if any.

(4) Failure to comply with the requirements of this rule may be a basis for rejection of the document.

**PART 9. NOTICE OF PUBLIC SCHOOL STRIKE OR LOCKOUT**

**R 423.191 Notice; filing; service.**

Rule 191. (1) A public school employer alleging an illegal strike by 1 or more public school employees under section 2a of PERA shall notify the commission, in writing, on a form provided by the commission, which shall be accompanied by an affidavit signed by an agent for the public employer.

(2) The initial notice shall contain all of the following information and items:

(a) The name and address of the bargaining representative.

(b) The name and home address of each public school employee allegedly on strike.

(c) The pay rate of each alleged striking employee based on a daily rate.

(d) Two sets of mailing labels containing the names and home addresses of the public school employees allegedly on strike.

(e) An affidavit which is signed and dated by an agent of the public school employer and which includes the following information supported by specific facts:

(i) A statement of how the affiant has personal knowledge of the facts recited in the affidavit.

(ii) The date each employee was absent from his or her position and how each employee has abstained, in whole or in part, from the full, faithful, and proper performance of the duties of his or her employment for the purpose of inducing, influencing, or coercing a change in employment conditions, compensation, or the rights, privileges, or obligations of employment or for the purpose of protesting or responding to an act alleged or determined to be an unfair labor practice committed by the public school employer.

(3) Upon filing a written notice and affidavit with the commission, the public school employer shall simultaneously serve each named bargaining representative and public school employee with a copy of the written notice and affidavit by first-class mail, postage prepaid. The copy served upon the employee shall state that the public school employer has filed a written notice and affidavit with the commission that the named employee has engaged in an illegal strike and that statutory penalties are being sought. Proof of service shall be filed with the commission together with the initial notice.

(4) A bargaining representative representing public school employees alleging an illegal lockout of public school employees under section 2a of PERA shall notify the commission, in writing, on a form provided by the commission, which shall be accompanied by an affidavit signed by an agent of the bargaining representative.

(5) The initial notice shall contain both of the following:



- (a) The name and address of the public school employer allegedly liable under section 2a of PERA.
- (b) An affidavit which is signed and dated by an agent of the bargaining representative and which includes all of the following information supported by specific facts:
  - (i) A statement of how the affiant has personal knowledge of the facts recited in the affidavit.
  - (ii) A statement of the actions of the public school employer taken in order to bring pressure upon the affected employees or the bargaining representative, or both, to accept the employer's terms of settlement of a labor dispute.
  - (iii) The date of commencement of the lockout.
  - (iv) The number of days of the lockout.
  - (v) Whether the lockout is continuing.
- (6) Upon filing a written notice and affidavit with the commission, the bargaining representative shall simultaneously serve the public school employer with a copy of the written notice and affidavit by first-class mail, with postage prepaid. The notice shall state that the bargaining representative has filed a written notice with the commission that an illegal lockout has occurred and that statutory penalties are being sought. Proof of service shall be filed with the commission together with the initial notice.

**R 423.192 Compliance; notice of hearing; service; postponement.**

Rule 192. Upon receipt of notice and affidavit, the commission or its representatives shall review the notice and affidavit for compliance with R 423.191. If a filing is not in compliance with these rules, a filing may be rejected and proceedings shall not be held on the filing. Within 5 days of receipt of sufficient notice and affidavit, the commission shall serve a notice of hearing on the public school employer, the bargaining representative, and public school employees named in the notice. The notice of hearing shall fix the date of hearing not less than 15 days from the date of service by mail. The hearing will be conducted before the commission or an administrative law judge designated by the commission and shall be on the record. A postponement of the hearing will not be granted without the consent of the commission.

**R 423.193 Answers; defenses.**

Rule 193. (1) A person or party alleged in the initial notice to have violated section 2 of PERA shall file an answer and any affirmative defenses with the commission within 10 days of the date of service of notice of hearing and shall simultaneously serve the party filing the initial notice.

(2) Only pleadings filed in a timely fashion in accordance with this rule shall be considered unless good cause is shown for late filing.

**R 423.194 Hearings.**

Rule 194. (1) A hearing shall be convened, in accordance with proper notice, at which the parties shall be given the opportunity to present evidence of their claims and defenses.

(2) The commission decision and order shall be based on the record of the hearing.

(3) The commission or a designated administrative law judge shall conduct the hearing under R 423.171(2) to R 423.172. The hearing shall be public unless otherwise ordered by the commission or administrative law judge for good cause shown. If an administrative law judge or commissioner designated to conduct the hearing becomes unavailable after the hearing has opened, the commission may transfer the case to another administrative law judge or commissioner. A party is entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be made part of the record. Except as otherwise provided in these rules, the provisions of R 423.171(1) and R 423.173 to R 423.179 are not applicable to this part.

(4) At the discretion of the administrative law judge, parties may submit post-hearing briefs.

(5) The commission shall issue its decision and order within 60 days of receipt of the notice filed under R 423.191.

423.401	Rescinded
423.403	Rescinded
423.405	Rescinded
423.407	Rescinded
423.411	Rescinded.
423.421	Rescinded.
423.422	Rescinded.
423.423	Rescinded.
423.431	Rescinded.
423.432	Rescinded.
423.433	Rescinded.
423.434	Rescinded.
423.435	Rescinded.
423.441	Rescinded.
423.442	Rescinded.
423.443	Rescinded.
423.444	Rescinded.
423.445	Rescinded.
423.446	Rescinded.
423.447	Rescinded.
423.448	Rescinded.
423.449	Rescinded.
423.450	Rescinded.
423.451	Rescinded.
423.452	Rescinded.
423.453	Rescinded.
423.454	Rescinded.
423.455	Rescinded.
423.456	Rescinded.
423.461	Rescinded.
423.462	Rescinded.
423.463	Rescinded.
423.464	Rescinded.
423.465	Rescinded.
423.466	Rescinded.
423.467	Rescinded.
423.468	Rescinded.
423.469	Rescinded.
423.470	Rescinded.
423.471	Rescinded.
423.472	Rescinded.
423.481	Rescinded.

423.482	Rescinded.
423.483	Rescinded.
423.484	Rescinded.

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ADMINISTRATIVE RULES

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**ORR # 2000-074**

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**OCCUPATIONAL HEALTH STANDARDS—AIR CONTAMINANTS FOR CONSTRUCTION**

Filed with the Secretary of State on January 15, 2002.

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 14 and 24 of 1974 PA 154 and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 408.1014, 408.1024, 330.3101, and 445.2001)

**R 325.60151 Construction air contaminants.**

Rule 1. (1) An employer shall ensure that employee exposures to inhalation, ingestion, skin absorption, or contact with any material or substance at a concentration above those specified in the "Threshold Limit Values of Airborne Contaminants for 1970" of the American Conference of Governmental Industrial Hygienists, as listed in R 325.60154 to R 325.60161, are avoided.

(2) To achieve compliance with subrule (1) of this rule, an employer shall ensure that administrative or engineering controls are implemented whenever feasible. If administrative or engineering controls are not feasible to achieve full compliance, then protective equipment or other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this rule. Any equipment and technical measures used for this purpose shall first be approved for each particular use by a competent industrial hygienist or other technically qualified person. Respirators shall be used in a manner that is in compliance with R 325.60051 et seq., Part 451. respiratory protection.

(3) R 325.51401 et seq., Part 302. vinyl chloride, of the MIOSHA Occupational Health Standards for General Industry applies to the exposure of every employee to vinyl chloride in every employment and place of employment covered by these rules in place of any different standard on exposure to vinyl chloride that would otherwise be applicable by virtue of subrule (1) of this rule.

(4) These rules replace O.H. rule 6201.

(5) The "Threshold Limit Values (TLV) of the American Conference of Governmental Industrial Hygienists (A.C.G.I.H.) for 1970" appear in R 325.60153 to R 325.60161. The Threshold Limit Values identified in these administrative rules as Maximum Allowable Concentrations (MAC) are specified in the rules that follow.

**R 325.60152 Definitions pertaining to contaminants.**

Rule 2. As used in these rules:

(a) "Maximum allowable concentration" or "MAC" means the threshold limit value or the time-weighted average 8-hour airborne concentration of a contaminant to which a person may be safely exposed.

- (b) “Mg/m<sup>3</sup>” means milligrams of particulate per cubic meter of air.
- (c) “Mppcf” means millions of particulates per cubic foot of air based on impinger samples counted by light field microscopic techniques.
- (d) “Non-respirable atmosphere” means an atmosphere which contains insufficient oxygen, or an elevated level of contaminants which may render a person incapable of self-rescue.
- (e) “Ppm” means parts of vapor or gas per million parts of air by volume at 25 degrees Celsius and 760 millimeters of mercury pressure.
- (f) “Source” means a process or equipment that releases a contaminant into the air in concentrations exceeding the MAC.

### **R 325.60153 Contaminants; exposures; MAC.**

Rule 3. (1) An employer shall not allow an employee to be exposed to a contaminant at concentrations in excess of the MAC as listed in R 325.60154 to R 325.60161.

(2) An employer shall not allow an employee to be exposed to a contaminant or combination of contaminants in concentrations that are hazardous or injurious to the person's health.

### **R 325.60154 Maximum allowable concentrations.**

Rule 4. (1) Maximum allowable concentrations of air contaminants based on a repeated 8-hour work day exposure are listed in tables 1 to 7 in R 325.60155 to R 325.60161.

(2) A substance in tables 1 to 6 that is preceded by the letter A, C, or S is an especially hazardous contaminant and all the following precautions shall be taken:

- (a) If the substance is preceded by the letter "A", then an employer shall ensure that an employee or any part of an employee's anatomy is not exposed to, or allowed to come in contact with, the substance by means of any respiratory, oral, or skin route.
- (b) If the substance is preceded by the letter "C", then its MAC means the highest concentration at which an employer may allow a person to be exposed at any time. This concentration is commonly referred to as a “ceiling.”
- (c) If the substance is preceded by the letter "S", then an employer shall ensure that precautions are taken to prevent skin absorption.

### **R 325.60155 Maximum allowable concentrations for substances; A and B.**

Rule 5. Table 1. Substances A and B

Substance	MAC	
	ppm	mg/m <sup>3</sup>
Abate	---	15
Acetaldehyde	200	360
Acetic acid	10	25
Acetic anhydride	5	20
Acetone	1,000	2,400
Acetonitrile	40	70
Acetylene	Inert gas	
Acetylene dichloride, see 1,2-Dichloroethylene		
Acetylene tetrabromide	1	14
Acrolein	0.1	0.25
S Acrylamide	---	0.3
S Acrylonitrile (see R 325.51501 et seq.*)		
S Aldrin	---	0.25
S Allyl alcohol	2	5

	Allyl chloride	1	3
C	Allyl glycidyl ether (AGE)	10	45
	Allyl propyl disulfide	2	12
	Alundum, (Al <sub>2</sub> O <sub>3</sub> )	Inert dust	
	2-Aminoethanol, see Ethanolamine		
	2-Aminopyridine	0.5	2
	Ammonia	50	35
	Ammonium sulfamate (amate)	---	15
	n-Amyl acetate	100	525
	sec-Amyl acetate	125	650
S	Aniline	5	19
S	Anisidine (o,p-isomers)	---	0.5
	Antimony & compounds (as Sb)	---	0.5
	ANTU (alpha naphthyl thiourea)	---	0.3
	Argon	Inert gas	
	Arsenic, inorganic compounds (see R 325.51601 et seq.*)		
	Arsenic, organic compounds (as As)	---	0.5
	Arsine	0.05	0.2
S	Azinphos-methyl	---	0.2
	Barium (soluble compounds)	---	0.5
S,C	Benzene (benzol) (see R 325.77101 et seq.*)		
A,S	Benzidine	---	---
	P-Benzoquinone, see Quinone		
	Benzoyl peroxide	---	5
	Benzyl chloride	1	5
	Beryllium	---	0.002
	Biphenyl, see Diphenyl		
	Bisphenol A, see Diglycidyl ether		
	Boron oxide	---	15
	Boron tribromide	1	10
C	Boron trifluoride	1	3
	Bromine	0.1	0.7
	Bromine pentafluoride	0.1	0.7
S	Bromoform	0.5	5
	Butadiene (1,3-butadiene) (see R 325.50091 et seq.*)		
	Butanethiol, see Butyl mercaptan		
	2-Butanone	200	590
S	2-Butoxy ethanol (butyl cellosolve)	50	240
	Butyl acetate (n-butyl acetate)	150	710
	sec-Butyl acetate	200	950
	tert-Butyl acetate	200	950
	Butyl alcohol	100	300
	sec-Butyl alcohol	150	450
	tert-Butyl alcohol	100	300
S,C	Butylamine	5	15
S,C	tert-Butyl chromate (as CrO <sub>3</sub> )	---	0.1
	n-Butyl glycidyl ether (BGE)	50	270
	Butyl mercaptan	0.5	1.5
	p-tert-Butyltoluene	10	60
	A	See R 325.60154(2).	
	C	See R 325.60154(2).	
	S	See R 325.60154(2).	

\* Caution--these rules contain extensive requirements for exposure to these substances.

**R 325.60156 Maximum allowable concentrations for substances; C and D.****Rule 6. Table 2. Substances C and D**

Substance	MAC	
	ppm	mg/m <sup>3</sup>
Cadmium (metal dust and soluble salts) (see R 325.51851 et seq.*)		
C Cadmium oxide fume (as Cd) (see R 325.51851 et seq.*)		
Calcium arsenate	---	1
Calcium carbonate	Inert dust	
Calcium oxide	---	5
Camphor (synthetic)	2	---
Carbaryl (Sevin®)	---	5
Carbon black	---	3.5
Carbon dioxide	5,000	9,000
S Carbon disulfide	20	60
Carbon monoxide	50	55
S,C Carbon tetrachloride	10	65
Cellulose (paper fiber)	Inert dust	
S Chlordane	---	0.5
S Chlorinated camphene	---	0.5
Chlorinated diphenyl oxide	---	0.5
Chlorine	1	3
Chlorine dioxide	0.1	0.3
C Chlorine trifluoride	0.1	0.4
C Chloroacetaldehyde	1	3
alpha-Chloroacetophenone (phenacylchloride)	0.05	0.3
Chlorobenzene (monochlorobenzene)	75	350
o-Chlorobenzylidene malononitrile (OCBM)	0.05	0.4
Chlorobromomethane	200	1,050
2-Chloro-1,3-butadiene, see Chloroprene		
S Chlorodiphenyl (42% Chlorine)	---	1
S Chlorodiphenyl (54% Chlorine)	---	0.5
1-Chloro-2,3-epoxypropane, see Epichlorohydrin		
2-Chloroethanol, see Ethylene chlorohydrin		
Chloroethylene, see Vinyl chloride		
C Chloroform (trichloromethane)	50	240
1-Chloro-1-nitropropane	20	100
Chloropicrin	0.1	0.7
S Chloroprene (2-chloro-1,3-butadiene)	25	90
Chromic acid and chromates (as CrO <sub>3</sub> )	---	0.1
Chromium, sol. chromic & chromous salts (as Cr)	---	0.5
Metal & insol. salts	---	1
Coal tar pitch volatiles (benzene soluble fraction: anthracene, BaP, phenanthrene, acridine, chrysene, pyrene)	---	0.2
Cobalt, metal fume & dust	---	0.1
Coke oven emissions (see R 325.50101 et seq.*)		
Copper fume	---	0.1
Dusts and mists	---	1
Corundum (Al <sub>2</sub> O <sub>3</sub> )	Inert dust	
Cotton dust (raw)	---	1
Crag® herbicide	---	15
S Cresol (all isomers)	5	22

	Crotonaldehyde	2	6
S	Cumene	50	245
S	Cyanide (as CN)	---	5
	Cyanogen	10	---
	Cyclohexane	300	1,050
	Cyclohexanol	50	200
	Cyclohexanone	50	200
	Cyclohexene	300	1,015
	Cyclopentadiene	75	200
	2,4-D	---	10
S	DDT (Dichlorodiphenyltrichloroethane)	---	1
	DDVP, see Dichlorvos		
S	Decaborane	0.05	0.3
S	Demeton®	---	0.1
	Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	50	240
	1,2-Diainoethane, see Ethylenediamine		
	Diazomethane	0.2	0.4
	Diborane	0.1	0.1
S,C	2-Dibromoethane (ethylene dibromide)	25	190
	Dibutyl phosphate	1	5
	Dibutyl phthalate	---	5
C	Dichloroacetylene	0.1	0.4
C	o-Dichlorobenzene	50	300
	p-Dichlorobenzene	75	450
	Dichlorodifluoromethane	1,000	4,950
	1,3-Dichloro-5,5-dimethyl hydantoin	---	0.2
	1,1-Dichloroethane	100	400
	1,2-Dichloroethane	50	200
	1,2-Dichloroethylene	200	790
S,C	Dichloroethyl ether	15	90
	Dichloromethane, see Methylene chloride		
	Dichloromonofluoromethane	1,000	4,200
C	1,1-Dichloro-1-nitroethane	10	60
	1,2-Dichloropropane, see Propylene dichloride		
	Dichlorotetrafluoroethane	1,000	7,000
S	Dichlorvos (DDVP)	---	1
S	Dieldrin	---	0.25
	Diethyl	25	75
S	Diethylamino, ethanol	10	50
S,C	Diethylene triamine	10	42
	Diethyl ether, see Ethyl ether		
	Difluorodibromomethane	100	860
C	Diglycidyl ether (DGE)	0.5	2.8
	Dihydroxybenzene, see Hydroquinone		
	Diisobutyl ketone	50	290
S	Diisopropylamine	5	20
	Dimethoxymethane, see Methylal		
S	Dimethyl acetamide	10	35
	Dimethylamine	10	18
	Dimethylaminobenzene, see Xylidene		
S	Dimethylaniline (N-dimethylaniline)	5	25
	Dimethylbenzene, see Xylene		
	Dimethyl-1,2-dibromo-2,2-dichloroethyl phosphate (Dibrom®)	---	3



S	Dimethylformamide	10	30
	2,6-Dimethylheptanone, see Diisobutyl ketone		
S	1,1-Dimethylhydrazine	0.5	1
	Dimethylphthalate	---	5
S	Dimethylsulfate	1	5
S	Dinitrobenzene (all isomers)	---	1
S	Dinitro-o-cresol	---	0.2
S	Dinitrotoluene	---	1.5
S	Dioxane (diethylene dioxide)	100	360
	Diphenyl	0.2	1
	Diphenyl amine	---	10
	Diphenylmethane diisocyanate, see Methylene bisphenyl isocyanate (MDI)		
S	Dipropylene glycol methyl ether	100	600
	Di-sec,octyl phthalate (di-2-ethylhexylphthalate)	---	5
	A See R 325.60154(2).		
	C See R 325.60154(2).		
	S See R 325.60154(2).		
*	Caution--these rules contain extensive requirements for exposure to these substances.		

**R 325.60157 Maximum allowable concentrations for substances; E to H.****Rule 7.** Table 3. Substances E to H

Substance	MAC	
	ppm	mg/m <sup>3</sup>
Emery	Inert dust	
S Endosulfan (Thiodan®)	---	0.1
S Endrin	---	0.1
S Epichlorohydrin	5	19
S EPN	---	0.5
1,2-Epoxypropane, see Propylene oxide		
2,3-Epoxy-1-propanol, see Glycidol		
Ethane	Inert gas	
Ethanethiol, see Ethyl mercaptan		
Ethanolamine	3	6
S 2-Ethoxyethanol	200	740
S 2-Ethoxyethylacetate (cellosolve acetate)	100	540
Ethyl acetate	400	1,400
S Ethyl acrylate	25	100
Ethyl alcohol (ethanol)	1,000	1,900
Ethylamine	10	18
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	25	130
Ethyl benzene	100	435
Ethyl bromide	200	890
Ethyl butyl ketone (3-heptanone)	50	230
Ethyl chloride	1,000	2,600
Ethyl ether	400	1,200
Ethyl formate	100	300
Ethyl mercaptan	0.5	1
Ethyl silicate	100	850
Ethylene	Inert gas	
S Ethylene chlorohydrin	5	16
Ethylenediamine	10	25
Ethylene dibromide, see 1,2-Dibromoethane		

	Ethylene dichloride, see 1,2-Dichloroethane		
S,C	Ethylene glycol dinitrate and/or Nitroglycerin	0.2	
	Ethylene glycol monomethyl ether acetate, see Methyl cellosolve acetate		
S	Ethyleneimine	0.5	1
	Ethylene oxide (see R 325.51151 et seq.*)		
	Ethylidene chloride, see 1,1-Dichloroethane		
S	N-Ethylmorpholine	20	94
	Ferbam	---	15
	Ferrovanadium dust	---	1
	Fibrous glass		Inert dust
	Fluoride (as F)	---	2.5
	Fluorine	0.1	0.2
	Fluorotrichloromethane	1,000	5,600
C	Formaldehyde (see R 325.51451 et seq.*)		
	Formic acid	5	9
S	Furfural	5	20
	Furfuryl alcohol	50	200
	Gasoline (limits will be based on aromatic hydrocarbons in mixture)		
	Glycerine mist		Inert mist
	Glycidol (2,3-epoxy-1-propanol)	50	150
	Glycol monoethyl ether, see 2-Ethoxyethanol		
	Graphite (synthetic)		Inert dust
	Guthion®, see Azinphos-methyl		
	Gypsum		Inert dust
	Hafnium	---	0.5
	Helium		Inert gas
S	Heptachlor	---	0.5
	Heptane (n-heptane)	500	2,000
S	Hexachloroethane	1	10
S	Hexachloronaphthalene	---	0.2
	Hexane (n-hexane)	500	1,800
	2-Hexanone	100	410
	Hexone (methyl isobutyl ketone)	100	410
	sec-Rexyl acetate	50	300
S	Hydrazine	1	1.3
	Hydrogen		Inert gas
	Hydrogen bromide	3	10
C	Hydrogen chloride	5	7
S	Hydrogen cyanide	10	11
	Hydrogen fluoride	3	2
	Hydrogen peroxide	1	1.4
	Hydrogen selenide	0.05	0.2
	Hydrogen sulfide	10	15
	Hydroquinone	---	2

A See R 325.60154(2).

C See R 325.60154(2).

S See R 325.60154(2).

\* Caution--these rules contain extensive requirements for exposure to these substances.

# R 325.60158 Maximum allowable concentrations for substances; I to M.

Rule 8. Table 4. Substances I to M

MAC

Substance	ppm	mg/m <sup>3</sup>
Indene	10	45
Indium and compounds (as In)	---	0.1
C Iodine	0.1	1
Iron oxide fume	---	10
Iron salts, soluble (as Fe)	---	1
Isoamyl acetate	100	525
Isoamyl alcohol	100	360
Isobutyl acetate	150	700
Isobutyl alcohol	100	300
Isophorone	25	140
Isopropyl acetate	250	950
Isopropyl alcohol	400	980
Isopropylamine	5	12
Isopropyl ether	500	2,100
Isopropyl glycidyl ether (IGE)	50	240
Kaolin	Inert dust	
Ketene	0.5	0.9
Lead and lead compounds (see R 325.51991 et seq.*)		
Limestone	Inert dust	
S Lindane	---	0.5
Lithium hydride	---	0.025
L.P.G. (liquified petroleum gas)	1,000	1,800
Magnesite	Inert dust	
Magnesium oxide fume	15	
S Malathion	---	15
Maleic anhydride	0.25	1
C Manganese and compounds (as Mn)	---	5
Marble	Inert dust	
S Mercury	---	0.1
S Mercury (organic compounds)	---	0.01
Mesityl oxide	25	100
Methane	Inert gas	
Methanethiol, see Methyl mercaptan		
Methoxychlor	---	15
2-Methoxyethanol, see Methyl cellosolve		
Methyl acetate	200	610
Methyl acetylene (propyne)	1,000	1,650
Methyl acetylene-propadiene mixture (MAPP)	1,000	1,800
S Methyl acrylate	10	35
Methylal (dimethoxymethane)	1,000	3,100
Methyl alcohol (methanol)	200	260
Methylamine	10	12
Methyl amyl alcohol, see Methyl isobutyl carbinol		
Methyl (n-amyl) ketone (2-heptanone)	100	465
S,C Methyl bromide	20	80
Methyl butyl ketone, see 2-Hexanone		
S Methyl cellosolve	25	80
S Methyl cellosolve acetate	25	120
C Methyl chloride	100	210
Methyl chloroform	350	1,900
Methylcyclohexane	500	2,000
Methylcyclohexanol	100	470

S	o-Methylcyclohexanone	100	460
	Methylenedianiline (MDA) (see R 325.51651 et seq.*)		
	Methyl ethyl ketone (MEK), see 2-Butanone		
	Methyl formate	100	250
S	Methyl iodide	5	28
	Methyl isoamyl ketone	100	475
S	Methyl isobutyl carbinol	25	100
	Methyl isobutyl ketone, see Hexone		
S	Methyl isocyanate	0.02	0.05
	Methyl mercaptan	0.5	1
	Methyl methacrylate	100	410
	Methyl propyl ketone, see 2-Pentanone		
C	Methyl silicate	5	30
C	alpha-Methyl styrene	100	480
C	Methylene bisphenyl isocyanate (MDI)	0.02	0.2
	Methylene chloride (dichloromethane) (see R 325.51651 et seq.*)		
	Molybdenum (soluble compounds)	---	5
	(insoluble compounds)	---	15
S	Monomethyl aniline	2	9
S,C	Mouomethyl hydrazine	0.2	0.35
S	Morpholine	20	70

A See R 325.60154(2).

C See R 325.60154(2).

S See R 325.60154(2).

\* Caution--these rules contain extensive requirements for exposure to these substances.

# R 325.60159 Maximum allowable concentrations for substances; N to P.

Rule 9. Table 5. Substances N to P

Substance	MAC	
	ppm	mg/m <sup>3</sup>
Naphtha (coal tar)	100	400
Naphtha (petroleum)(MAC will be based on aromatic hydrocarbons in mixture)		
Naphthalene	10	50
A beta-Naphthylamine	---	
Neon	Inert gas	
Nickel carbonyl	0.001	0.007
Nickel, metal and soluble compounds (as Ni)	---	1
S Nicotine	---	0.5
Nitric acid	2	5
Nitric oxide	25	30
S p-Nitroaniline	1	6
S Nitrobenzene	1	5
S p-Nitrochlorobenzene	---	1
Nitroethane	100	310
Nitrogen	Inert gas	
Nitrogen dioxide	5	9
Nitrogen trifluoride	10	29
S Nitroglycerin	0.2	2
Nitromethane	100	250
1-Nitropropane	25	90
2-Nitropropane	25	90
S,A N-Nitrosodimethylamine (dimethylnitrosomine)	---	

S	Nitrotoluene	5	30
	Nitrotrichloromethane, see Chloropicrin		
	Nitrous oxide		Inert gas
S	Octachloronaphthalene	---	0.1
	Octane	400	1,900
	Oil mist, particulate	---	5
	Oil mist, vapor (MAC will be based on aromatic hydrocarbons in mixture)		
	Osmium tetroxide	---	0.002
	Oxalic acid	---	1
	Oxygen difluoride	0.05	0.1
	Ozone	0.1	0.2
S	Paraquat	---	0.5
S	Parathion	---	0.1
	Pentaborane	0.005	0.01
S	Pentachloronaphthalene	---	0.5
S	Pentachlorophenol	---	0.5
	Pentaerythritol		Inert particulate
	Pentane	500	1,500
	2-Pentanone	200	700
	Perchloroethylene	100	670
	Perchloromethyl mercaptan	0.1	0.8
	Perchloryl fluoride	3	13.5
	Petroleum distillates (naphtha)(MAC will be based on aromatic hydrocarbons in mixture)		
S	Phenol	5	19
S	p-Phenylene diamine	---	0.1
	Phenyl ether (vapor)	1	7
	Phenyl ether-biphenyl mixture (vapor)	1	7
	Phenylethylene, see Styrene		
	Phenyl glycidyl ether (PGE)	10	60
S	Phenylhydrazine	5	22
S	Phosdrin (Mevinphos®)	---	0.1
	Phosgene (carbonyl chloride)	0.1	0.4
	Phosphine	0.3	0.4
	Phosphoric acid	---	1
	Phosphorus (yellow)	---	0.1
	Phosphorus pentachloride	---	1
	Phosphorus pentasulfide	---	1
	Phosphorus trichloride	0.5	3
	Phthalic anhydride	2	12
S	Picric acid	---	0.1
	Pival® (2-pivalyl-1,3-indandione)	---	0.1
	Plaster of Paris		Inert dust
	Platinim, soluble salts (as Pt)	---	0.002
	Polytetrafluoroethylene decomposition products, see Teflon® decomposition products		
	Propane		Inert gas
S	Propargyl alcohol	1	---
A	beta-Propiolactone	---	
	n-Propyl acetate	200	840
	Propyl alcohol	200	500
	n-Propyl nitrate	25	110

	Propylene bichloride	75	350
S	Propylene imine	2	5
	Propylene oxide	100	240
	Propyne, see Methyl acetylene		
	Pyrethrum	---	5
	Pyridine	5	15
	A See R 325.60154(2).		
	C See R 325.60154(2).		
	S See R 325.60154(2).		

**R 325.60160 Maximum allowable concentrations for substances; Q to Z.****Rule 10.** Table 6. Substances Q to Z

Substance	ppm	MAC
		mg/m <sup>3</sup>
Quinone	0.1	0.4
S RDX	---	1.5
Rhodium, metal fume, dusts, and insoluble compounds (as Rh)	---	0.1
Rhodium, soluble compounds (as Rh)	---	0.001
Ronnel	---	10
Rotenone (commercial)	---	5
Rouge		Inert dust
Selenium compounds (as Se)	---	0.2
Selenium hexafluoride	0.05	0.4
Silicon carbide		Inert dust
Silver, metal and soluble compounds	---	0.01
S Sodium fluoroacetate (1080)	---	0.05
Sodium hydroxide	---	2
Starch		Inert dust
Stibine	0.1	0.5
Stoddard solvent	200	1,150
Strychnine	---	0.15
C Styrene monomer (phenylethylene)	100	420
Sucrose		Inert dust
Sulfur dioxide	5	13
Sulfur hexafluoride	1,000	6,000
Sulfuric acid	---	1
Sulfur monochloride	1	6
Sulfur pentafluoride	0.025	0.25
Sulfuryl fluoride	5	20
Systox, see Demeton®		
2,4,5T	---	10
Tantalum	---	5
S TEDP	---	0.2
Teflon® decomposition products (maintain minimal air concentration)		
Tellurium	---	0.1
Tellurium hexafluoride	0.02	0.2
S TEPP	---	0.05
C Terphenyls	1	9
1,1,1,2-Tetrachloro-2,2-difluoroethane	500	4,170
1,1,2,2-Tetrachloro-1,2-difluoroethane	500	4,170
S 1,1,2,2-Tetrachloroethane	5	35

	Tetrachloroethylene, see Perchloroethylene		
	Tetrachloromethane, see Carbon tetrachloride		
S	Tetrachloronaphthalene	---	2
S	Tetraethyl lead (as Pb)	---	0.075 <sup>a</sup>
	Tetrahydrofuran	200	590
S	Tetramethyl lead (THL) (as Pb)	---	0.150
S	Tetramethyl succinonitrile	0.5	3
	Tetranitromethane	1	8
S	Tetryl (2,4,6-trinitrophenylmethylnitramine)	---	1.5
S	Thallium, soluble compounds (as Tl)	---	0.1
	Thiram	---	5
	Tin (inorganic compounds, except SnH <sub>4</sub> and SnO <sub>2</sub> )	---	2
	(organic compounds)	---	0.1
	Tin oxide	Inert particulate	
	Titanium dioxide	Inert particulate	
	Toluene (toluol)	200	750
C	Toluene-2,4-diisocyanate	0.02	0.14
S	o-Toluidine	5	22
	Toxaphene, see Chlorinated camphene		
	Tributyl phosphate	---	5
	1,1,1-Trichloroethane, see Methyl chloroform		
S	1,1,2-Trichloroethane	10	45
	Trichloroethylene	100	535
	Trichloromethane, see Chloroform		
S	Trichloronaphthalene	---	5
	1,2,3-Trichloropropane	50	300
	1,1,2-Trichloro-1,2,2-trifluoroethane	1,000	7,600
	Triethylamine	25	100
	Trifluoromonobromomethane	1,000	6,100
	Trimethyl benzene	25	120
	2,4,6-Trinitrophenol, see Picric acid		
	2,4,6-Trinitrophenylmethylnitramine, see Tetryl		
S	Trinitrotoluene	---	1.5
	Triorthocresyl phosphate	---	0.1
	Triphenyl phosphate	---	3
	Tungsten and compounds (as W)		
	Insoluble	---	5
	Soluble	---	1
	Turpentine	100	560
	Uranium (natural)		
	soluble & insoluble compounds (as U)	---	0.2
C	Vanadium (V <sub>2</sub> O <sub>5</sub> dust)	---	0.5
	(V <sub>2</sub> O <sub>5</sub> fume)	---	0.1
	Vinyl benzene, see Styrene		
C	Vinyl chloride (see R 325.51401 et seq.*)		
	Vinyl cyanide, see Acrylonitrile		
	Vinyl toluene	100	480
	Warfarin	---	0.1
	Xylene (xylol)	100	435
S	Xylidine	5	25
	Yttrium	---	1
	Zinc chloride fume	---	1
	Zinc oxide fume	---	5
	Zirconium compounds (as Zr)	---	5

A See R 325.60154(2).  
 C See R 325.60154(2).  
 S See R 325.60154(2).

<sup>a</sup>The 1970 ACGIH standard for Tetraethyl lead is 0.100 mg/m<sup>3</sup>.

\* Caution--these rules contain extensive requirements for exposure to these substances.

**R 325.60161 Maximum allowable concentrations for mineral dusts.**

**Rule 11.** Table 7. Mineral dusts

Substance	MAC (mppcf)
Silica	
Crystalline *	
Quartz	MAC = $\frac{250}{\% \text{ SiO}_2 + 5}$
Cristobalite	MAC same as quartz
Amorphous, including natural diatomaceous earth	20
Silicates (less than 1% crystalline silica)	
Asbestos, all types (see asbestos in construction R 325.51301 et seq.)	
Mica	20
Portland cement	50
Soapstone	20
Talc (non-asbestiform)	20
Talc (fibrous) (see asbestos in construction R 325.51301 et seq.)	
Tremolite (see asbestos in construction R 325.51301 et seq.)	
Graphite (natural)	15
Inert or nuisance particles **	50 of total dust less than 1% SiO <sub>2</sub> (or 15 mg/m <sup>3</sup> , whichever is the smaller)

\* The percentage of crystalline silica, SiO<sub>2</sub>, in the formula is the amount determined from airborne samples.

\*\* The following are some examples of inert or nuisance particulates when toxic impurities are not present; e.g. quartz less than 1%.



Alundum ( $\text{Al}_2\text{O}_3$ )	Gypsum	Rouge
Calcium carbonate	Limestone	Silicon carbide
Cellulose	Magnesite	Starch
Corundum ( $\text{Al}_2\text{O}_3$ )	Marble	Sucrose
Emery	Pentaerythritol	Tin oxide
Glycerine mist	Plaster of Paris	Titanium dioxide
Graphite (synthetic)	Portland cement	Vegetable oil mists (except castor, cashew nut, or similar irritant oils)

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ADMINISTRATIVE RULES

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**ORR # 2001-041**

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF WORKERS' DISABILITY COMPENSATION**

**WORKER'S COMPENSATION HEALTH CARE SERVICES**

Filed with the Secretary of State on January 3, 2002.

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the bureau of worker's disability compensation by sections 205 and 315 of 1969 PA 317, section 33 of 1969 PA 306, Executive Reorganization Order No. 1982-2, Executive Reorganization Order No. 1986-3, and Executive Reorganization Order No. 1990-1, MCL 418.205, 418.315, 24.233, 18.24, 418.1, and 418.2

R 418.10107, R 418.10115, R 418.10116, R 418.10117, R 418.10202, R 418.10205, R 418.10901, R 418.10904, R 418.10912, R 418.10916, R 418.10923, and R 418.101002, of the Michigan Administrative Code are amended, R 418.10909 and R 418.101005 are added to the code, and R 418.10405, R 418.10406, R 418.10407, R 418.10411, R 418.10415, R 418.10501, R 418.10502, R 418.10503, and R 418.10918 of the Michigan Administrative Code are rescinded to read as follows:

**PART 1. GENERAL PROVISIONS**

**R 418.10107 Source documents.**

Rule 107. The following documents are adopted by reference in these rules and are available for inspection at, or purchase from, the bureau of workers' disability compensation, health care services division, P.O. Box 30016, Lansing, Michigan 48909, at the costs listed or from the organizations listed:

(a) "Physicians' Current Procedural Terminology (CPT®) 2002," standard edition, copyright October 2001, published by the American Medical Association, 515 N State Street, Chicago, IL 60610, order # OP054102BLC, 1-800-621-8335. The publication may be purchased at a cost of \$49.95, plus \$6.95 for shipping and handling as of the time of adoption of these rules. Permission to use this publication is on file in the bureau.

(b) "Medicare's National Level II Codes, HCPCS, 2002," Millennium Edition, copyright November 2001, published by the American Medical Association, P.O. Box 7046, 515 N State Street, Chicago, IL 60610, order # OP096102BLC customer service 1-800-621-8335. The publication may be purchased at a cost of \$49.95, plus \$6.95 for shipping and handling as of the time of adoption of these rules.

(c) "RBRVS, Fee Schedule: A Plain English Guide," 1999 edition, published by United Communications Group, 11300 Rockville Pike, Suite 1100, Rockville, MD 20852-3030. Customer service 1-301-287-2700. The handbook may be purchased at a cost of \$49.95 as of the time of adoption of these rules.

(d) "Medicare RBRVS 2002: The Physicians' Guide," published by The American Medical Association, 515 North State Street, Chicago IL, 60610, order #OPO59602BLC, 1-800-621-8335. The publication may be purchased at a cost of \$74.95, plus \$8.95 shipping and handling as of the time of adoption of these rules.

(e) "International Classification of Diseases, ICD-9-CM 2002" Millennium Edition, copyright 2001, American Medical Association, P.O. Box 7046, 515 N State Street, Chicago, IL 60610, order #OP068102BLC, 1-800-621-8335. The publication may be purchased at a cost of \$59.95, plus \$8.95 shipping and handling as of the time of adoption of these rules.

(f) "2002 Drug Topics Red Book," published by Medical Economics Company Inc., Five Paragon Drive, Montvale, NJ 07645-1742, 1-800-678-5689. The publication may be purchased at a cost of \$64.95, plus \$7.95 for shipping and handling as of the time of adoption of these rules.

(g) "Michigan Uniform Billing Manual," developed in cooperation with the American Hospital Association's National Uniform Billing Committee, published by Michigan Health and Hospital Association, 6215 West St. Joseph Highway, Lansing, MI 48917, 517-886-8366. As of the time of adoption of these rules, the cost of the publication is \$135.00, plus 6% sales tax.

#### **R 418.10115 Responsibilities of insured employer or self-insurer.**

Rule 115.(1) An insured employer shall do all of the following:

(a) Promptly file form 100, employer's basic report of injury, to report an injury that results in 7 or more days of disability, specific loss, or death, with the bureau and its insurer.

(b) Promptly notify its insurer of the cases that do not result in 7 or more days of disability, specific loss, or death.

(c) Promptly inform the provider of the name and address of its insurer or the designated agent of the insurer to whom health care bills should be sent.

(d) If an insured employer receives a bill, then the insured employer shall promptly transmit the provider's bill and documentation to the insurer or the designated agent of the insurer regarding a related injury or illness.

(2) For the purposes of this rule, a self-insurer shall promptly report all employee work-related injuries to their designated agent, unless they are self-administered.

(a) Unless self-administered, a self-insurer receiving a bill for a medical service shall forward the bill to their designated agent for processing and shall inform the medical provider of the address where future bills shall be sent.

#### **R 418.10116 Provider responsibilities.**

Rule 116. (1) A provider shall do both of the following:

(a) Promptly bill the carrier or the carrier's designated agent after the date of service.

(b) Submit the bill for the medical services provided to treat an injured worker on the proper claim form, to the workers' compensation carrier or the carrier's designated agent and shall attach the documentation required in part 9 of these rules.

(c) If a carrier requests the provider to send duplicated copies of the documentation required in part 9 or additional medical records not required by these rules, then the carrier shall reimburse the provider for the copying charges in accord with R 418.10118.

(2) If the provider has not received payment within 30 days of submitting a bill, then the provider shall resubmit the bill to the carrier and add a 3% late fee.

**R 418.10117 Carrier responsibilities.**

Rule 117. (1) The carrier or its designated agent shall assure that a billing form is completed properly before making payment.

(2) A carrier may designate a third party to receive provider bills on its behalf. If a carrier instructs the provider to send the medical bills directly to the third party, then the 30-day limit of this rule begins when the third party receives the bill. The carrier is responsible for forwarding bills and medical documentation when there is a third party reviewing medical bills for the carrier.

(3) A carrier or designated agent shall make payment of an unadjusted and properly submitted bill within 30 days of receipt of a properly submitted bill or shall add a self-assessed 3% late penalty to the maximum allowable payment as required by these rules.

(4) A carrier or designated agent shall make payment of an adjusted bill or portion of an adjusted bill within 30 days of receipt of the properly submitted bill. If a carrier or designated agent rejects a bill in its entirety, then the carrier or designated agent shall notify the provider of the rejection within 30 days after receipt of a properly submitted bill.

**R 418.10202 Evaluation and management services.**

Rule 202. (1) Procedure code 97010 performed in conjunction with an evaluation and management office visit shall not be reimbursed as a separate procedure.

(2) Minor medical and surgical supplies routinely used by the practitioner or health care organization in the office visit shall not be billed separately.

(3) Supplies, or other services, over and above those usually incidental to an office visit or other outpatient visit for the evaluation and management of a patient shall be billed separately under procedure code 99070.

(4) If an office visit is performed outside of the provider's normal business hours, the provider may bill the add on procedure codes describing an office visit performed after hours or on Sundays or holidays. A provider may bill add on procedure code 99050 in addition to the evaluation and management service, if a service is rendered between the hours of 6:00 p.m. and 7:00 a.m., Monday through Saturday. A provider may bill add on procedure code 99054 if a service is rendered on Sundays or holidays until 7:00 a.m. of the following regular working day.

(5) A procedure that is normally part of an examination or evaluation shall not be billed independently.

(a) Range of motion shall not be reimbursed as a separate procedure in addition to the evaluation and management service unless the procedure is medically necessary and appropriate for the injured worker's condition and diagnosis.

(6) The maximum allowable payment for the evaluation and management service shall be determined by multiplying the relative value unit, RVU, assigned to the procedure code, times the conversion factor listed in the reimbursement section of these rules.

(7) The level of an office visit or other outpatient visit for the evaluation and management of a patient is not guaranteed and may change from session to session. The level of service shall be consistent with the type of presenting complaint and supported by documentation in the record.

(8) Procedure codes 99455 and 99456 describing work-related or medical disability evaluation services shall not be used to describe an evaluation and management service for treating a work-related injury or illness. Procedure codes 99201-99350 shall be used to describe the practitioner's medical treatment of an injured worker.

(9) The carrier shall not reimburse the provider for procedure codes 90782-90799, administration of therapeutic injections, if billed in conjunction with an evaluation and management service. The medication

administered in the therapeutic injection shall be billed using procedure code 99070 and shall be identified with the national drug code number. The provider shall be reimbursed at the average wholesale price of the drug. If the provider does not bill an evaluation and management service then the appropriate procedure code describing the administration of the drug may be billed. The administered drug is billed additionally and is payable at the average wholesale price of the drug.

(10) The provider may bill immunization procedure codes in addition to the evaluation and management procedure code. If the provider bills an immunization, then the vaccine is described with procedure codes 90476-90748, and the administration of the vaccine is described with procedure code 90471 or 90472. The carrier shall reimburse the vaccine at the average wholesale price of the vaccine plus the cost of administration billed with procedure codes 90471 or 90472. Procedure code 90471 is reimbursed at \$5.00 and procedure code 90472 is reimbursed at \$7.50.

**R 418.10205 Consultation services.**

Rule 205. (1) An attending physician, carrier, third-party administrator, or the injured worker may request a consultation. A physician specialist shall provide consultations using procedure codes 99241-99275 to describe the service.

(2) The carrier may request a provider other than the treating practitioner to perform a confirmatory consult. The physician specialist performing the confirmatory consult shall bill procedure codes 99271-99275, defined in “Physicians’ Current Procedural Terminology (CPT®)” and shall be subject to the maximum payment allowance as defined in the reimbursement section of these rules.

(3) If a specialist performs diagnostic procedures or testing in addition to the consultation, then the specialist shall bill the appropriate procedure code from “Physicians’ Current Procedural Terminology (CPT®)”. The carrier shall reimburse the testing procedures in accordance with these rules.

**R 418.10405 Rescinded.**

**R 418.10406 Rescinded.**

**R 418.10407 Rescinded.**

**R 418.10411 Rescinded.**

**R 418.10415 Rescinded.**

**PART 5. RADIOLOGY, RADIATION THERAPY, AND NUCLEAR MEDICINE**

**R 418.10501 Rescinded.**

**R 418.10502 Rescinded.**

**R 418.10503 Rescinded.**

**R 418.10901 General Information.**

Rule 901. (1) All health care practitioners and health care organizations, as defined in these rules, shall submit charges on the proper claim form as specified in this rule. Copies of the claim forms and instruction for

completion for each form shall be published separate from these rules in a manual distributed by the health care services division of the bureau. Charges shall be submitted as follows:

- (a) A practitioner shall submit charges on the HCFA 1500 claim form.
- (b) A doctor of dentistry shall submit charges on a standard dental claim form approved by the American dental association.
- (c) A pharmacy, other than an inpatient hospital, shall submit charges on an invoice or a pharmacy universal claim form.
- (d) A hospital-owned occupational, industrial clinic, or office practice shall submit charges on the HCFA 1500 claim form.
- (e) A hospital billing for a practitioner service shall submit charges on a HCFA 1500 claim form.
- (f) Ancillary service charges shall be submitted on the HCFA 1500 claim form for durable medical equipment and supplies, L-code procedures, ambulance, vision, and hearing services. Charges for home health services shall be submitted on the UB-92 claim form.
- (g) A shoe supplier or wig supplier shall submit charges on an invoice.
- (2) A provider shall submit all bills to the carrier within 1 year of the date of service for consideration of payment, except in cases of litigation or subrogation.
- (3) A properly submitted bill shall include all OF the following appropriate documentation:
  - (a) A copy of the medical report for the initial visit.
  - (b) An updated progress report if treatment exceeds 60 days.
  - (c) A copy of the initial evaluation and a progress report every 30 days of physical treatment, physical or occupational therapy, or manipulation services.
  - (d) A copy of the operative report or office report if billing surgical procedure codes 10040-69990.
  - (e) A copy of the anesthesia record if billing anesthesia codes 00100-01999.
  - (f) A copy of the radiology report if submitting a bill for a radiology service accompanied by modifier -26.
  - (g) A report describing the service if submitting a bill for a “by report” procedure.
  - (h) A copy of the medical report if a modifier is applied to a procedure code to explain unusual billing circumstances.

#### **R 418.10904 Procedure codes and modifiers.**

Rule 904. (1) A health care service shall be billed with procedure codes adopted from “Physicians’ Current Procedural Terminology (CPT®)” or “HCPCS, Medicare’s National Level II Codes,” as referenced in R 418.10107 of these rules. Procedure codes from “Physicians’ Current Procedural Terminology (CPT®)” shall not be included in these rules, but shall be listed in a separate manual published by the bureau. Refer to “Physicians’ Current Procedural Terminology (CPT®)” for standard billing instructions, except where otherwise noted in these rules.

- (a) A provider billing services described with procedure codes from “Medicare’s National Level II Codes” shall refer to the publication as adopted by reference in R 418.10107 for coding information.
- (2) The following ancillary service providers shall bill codes from “HCPCS, Medicare’s National Level II Codes” as referenced in R 418.10107 of these rules to describe the ancillary services:
  - (a) Ambulance providers.
  - (b) Certified orthotists and prosthetists.
  - (c) Medical suppliers, including expendable and durable equipment.
  - (d) Hearing aid vendors and suppliers of prosthetic eye equipment.
- (3) A home health agency.

(4) If a practitioner performs a procedure that cannot be described by one of the listed CPT<sup>®</sup> or HCPCS codes, then the practitioner shall bill the unlisted procedure code. An unlisted procedure code shall only be reimbursed when the service cannot be properly described with a listed code and the documentation supporting medical necessity includes all of the following:

- (a) Description of the service.
- (b) Documentation of the time, effort, and equipment necessary to provide the care.
- (c) Complexity of symptoms.
- (d) Pertinent physical findings.
- (e) Diagnosis.
- (f) Treatment plan.

(5) The provider shall add a modifier code, found in Appendix A of the CPT<sup>®</sup> publication as adopted by reference in R 418.10107, following the correct procedure code describing unusual circumstances arising in the treatment of a covered injury or illness.

(a) When a modifier code is applied to describe a procedure, a report describing the unusual circumstances shall be included with the charges submitted to the carrier.

(6) Applicable modifiers from table 10904 shall be added to the procedure code to describe the type of practitioner performing the service. The required modifier codes for describing the practitioner are as follows:

**Table 10904**

**Modifier Codes**

-SA	When an anesthesiologist supervises, or provides medical direction to, a certified registered nurse anesthetist or anesthesiology resident.
-AA	When an anesthesiologist bills for services performed by the anesthesiologist.
-AH	When a licensed psychologist bills a diagnostic service or a therapeutic service, or both.
-AJ	When a certified social worker bills a therapeutic service.
-AK	When a nurse who has a specialty certification, as defined in these rules, treats an injured worker and bills a service other than assistant at surgery.
-AL	A limited license psychologist billing a diagnostic service or a therapeutic service.
-AU	When a physician's assistant treats an injured worker for a medical service other than assistant at surgery.
-CS	When a limited licensed counselor bills for a therapeutic service.
-LC	When a licensed professional counselor performs a therapeutic service.
-MF	When a licensed marriage and family therapist performs a therapeutic service.
-ML	When a limited licensed marriage and family therapist performs a service.
-PC	When patient-controlled analgesia is provided by a physician who owns the patient-controlled analgesia equipment.
-TC	When billing for the technical component of a radiology service.
-QX	When a certified registered nurse anesthetist performs a service under the medical direction of an anesthesiologist.
-QZ	When a certified registered nurse anesthetist performs anesthesia services without medical direction.

**R 418.10909 Billing for home health services.**

Rule 909. (1) Services provided by a home health agency are considered ancillary services requiring a physician's prescription certifying medical necessity. A copy of the prescription shall be attached to the bill.

(2) A home health agency shall submit charges to the workers' compensation carrier using the UB-92 claim form.

(3) A home health agency shall use procedure codes from "HCPCS, Medicare's National Level II Codes" adopted by reference in R 418.10107 to identify services provided.

(4) A home health agency may not bill for the services of a social worker unless the certified social worker is providing medically necessary therapeutic counseling.

(5) A home health agency may bill supplies with 99070, the unlisted CPT® code for miscellaneous supplies, or the appropriate supply code from "Medicare's National Level II Codes HCPCS" as adopted by reference in R 418.10107.

(6) When a procedure code is described by "HCPCS, Medicare's Level II" as per diem, the "by report" service is reimbursed per visit. When "HCPCS, Medicare's Level II" describes a service as time-based the service is "by report," and the procedure is reimbursed according to the time provided.

#### **R 418.10912 Billing for prescription medications.**

Rule 912. (1) Prescription drugs may be dispensed to an injured worker by either an outpatient pharmacy or a health care organization as defined in these rules. These rules shall apply to the pharmacy dispensing the prescription drugs to an injured worker only after the pharmacy has either written or oral confirmation from the carrier that the prescriptions or supplies are covered by workers' compensation insurance.

(2) A bill or receipt for a prescription drug from an outpatient pharmacy, practitioner, or health care organization shall be submitted to the carrier and shall include the name, address, and social security number of the injured worker. An outpatient pharmacy shall bill the service using the universal pharmacy claim form or an invoice and shall include the national association board of pharmacy identification number and the serial number of the prescription drug.

(3) A health care organization or physician office dispensing the prescription drug shall bill the service on the HCFA 1500 claim form. Procedure code 99070 shall be used to code the service and the national drug code shall be used to describe the drug.

(4) If an injured worker has paid for a prescription drug for a covered work illness, then the worker may send a receipt showing payment along with the drug information to the carrier for reimbursement.

(5) An outpatient pharmacy or health care organization shall include all of the following information when submitting a bill for a prescription drug to the carrier:

(a) The brand or chemical name of the drug dispensed.

(b) The manufacturer or supplier's name and the NDC, or national drug code from the "RED BOOK" as adopted by reference in R 418.10107.

(c) The dosage, strength, and quantity dispensed.

(d) The date the drug was dispensed.

(e) The physician prescribing the drug.

(6) A practitioner or a health care organization, other than an inpatient hospital, shall bill WC700 to describe the dispense fee for each prescription drug. A provider will only be reimbursed for 1 dispense fee for each prescription drug in a 10-day period. A dispense fee shall not be billed with "OTC"'s, over-the-counter drugs.

### **PART 9. BILLING**

#### **SUBPART A. PRACTITIONER BILLING**



**R 418.10916 Billing for-minor practitioner services performed in an outpatient hospital setting.**

Rule 916. (1) This rule applies to the practitioner component of minor procedures that can safely be performed in a setting other than an outpatient hospital. If a practitioner or health care organization submits a bill for a procedure code listed in table 10916 in the outpatient hospital setting, then modifier code -26 shall be added to the procedure code and the carrier shall pay the maximum allowable fee listed in the manual for the technical portion of the procedure, or if the technical portion is not listed then the carrier shall pay 40% of the maximum allowable fee for the procedure.

(2) This rule shall not apply to any of the following instances:

(a) During an inpatient, observation stay, or services appropriately performed in the emergency room department.

(b) For procedures performed during an outpatient surgery.

(c) If procedures from table 10916 are performed during the course of an outpatient setting in conjunction with a procedure that is appropriately performed in the outpatient setting; for example, a radiology procedure with a myelogram or outpatient surgery.

(3) This rule shall not apply if the procedure is performed by an emergency room physician granted privileges by the hospital to practice in the emergency room.

(4) Table 10916 reads as follows:

TABLE 10916				
10060	20665-20670	30901	65205-65222	92531-92599
10120	23065	40800	67700	93740
10140	23330	40804	67715-67805	94010-95065
10160	24065	40820	67810-67825	95115-95199
11000	24200	41000-41005	67938	95180
11040	25065	41800-41805	69000	95860-95904
11100-11101	26010	42300	69020	95930-95937
11720-11750	27040	42310	70030-70360	98925-98943
11900-11901	27086	45300	70450-71030	99195
12001-12004	27323	45330	71100-72220	99201-99215
15860	27613	46050	73000-74420	99241-99245
16000	28001	50398	74400-74420	90801-99815
16020-16030	28190	51000	78300-78699	
20500	3000-30100	51700-51710	90901-90911	
20520	30200-30210	53600-53661	92002-92014	
20550-20610	30300	53670-53675	92230-92504	

**R 418.10918 Rescinded**

**PART 9. BILLING**  
**SUBPART B. FACILITY BILLING**

**R 418.10923 Hospital billing for practitioner services.**

Rule 923. (1) A hospital billing for practitioner services, including a certified registered nurse anesthetist, a physician, a nurse who has a specialty certification, and a physician's assistant shall submit bills on a HCFA 1500 form and the hospital shall use the appropriate procedure codes adopted by these rules.

(a) A hospital or hospital-system owned office practice shall bill all office services as practitioner services on a HCFA 1500 form using site of service 3 or 11.

(b) A hospital or hospital-system owned industrial or occupational clinic shall bill all clinic services as practitioner services on a HCFA 1500 using site of service 3 or 11. Radiology and laboratory services may be billed as facility services on the UB-92.

(2) A hospital billing for a radiologist's services shall bill the professional component of the radiology procedure on the HCFA 1500 claim form and shall place modifier -26 after the appropriate radiology procedure code to identify the professional component of the service.

(3) A hospital billing for the professional component of a pathology service shall bill the service on a HCFA 1500 claim form and add modifier -26.

(4) A hospital billing for a certified registered nurse anesthetist shall bill only time units of an anesthesiology procedure and use modifier -QX with the appropriate anesthesia code, except in the absence of medical direction from a supervising anesthesiologist.

## **PART 10. REIMBURSEMENT**

### **SUBPART A. PRACTITIONER REIMBURSEMENT**

#### **R 418.101002 Conversion factors for medical, surgical, and radiology procedure codes.**

Rule 1002. (1) The bureau shall determine the conversion factors for medical, surgical, and radiology procedures. The conversion factor shall be used by the bureau for determining the maximum allowable payment for medical, surgical, and radiology procedures. The maximum allowable payment shall be determined by multiplying the appropriate conversion factor times the relative value unit assigned to a procedure. The relative value units are listed for the medicine, surgical, and radiology procedure codes in a manual separate from these rules. The manual shall be published annually by the bureau using codes adopted from "Physicians' Current Procedural Terminology (CPT®)" as referenced in R 418.10107(a). The Bureau shall determine the relative values by using information found in the "RBRVS: Fee Schedule" as adopted by reference in R 418.10107(c).

(2) The 3 conversion factors for medicine, radiology, and surgical procedures shall be phased into 1 conversion factor. The conversion factors are listed in the following table:

**Table 1002**

<b>Type of Service</b>	<b>Year 2000</b>	<b>Year 2001</b>	<b>Year 2002</b>
Medicine procedure codes, 90281-99199	\$41.83	\$44.42	\$47.01
Radiology procedure codes, 70010-79999	\$46.56	\$46.74	\$47.01
Surgery procedure codes, 10040-69979	\$48.62	\$47.82	\$47.01

(a) The conversion factors for year 2000 shall be effective for dates of service occurring on or after the effective date of these rules.

(b) The conversion factors for the year 2001 shall be effective for dates of service occurring on or after January 1, 2001.

(c) The single conversion factor of \$47.01 shall be effective for all services occurring on or after January 1, 2002.

(3) The 1999 Relative Values adopted from "RBRVS 1999 Fee Schedule: A Plain English Guide" as adopted by reference in R 418.10107, shall be used for determining the maximum allowable payment during the phase-in period of converting to 1 conversion factor. If new procedure codes are added into "Physicians' Current Procedural Terminology, (CPT®)" as adopted by reference in R 418.10107, then the relative value and global period listed in the most recent edition of the "Medicare RBRVS Fee Schedule: A Physicians' Guide" as

adopted by reference in R 418.10107 shall be used by the bureau to determine the maximum allowable payment for new procedure codes not listed in the “RBRVS 1999 Fee Schedule: A Plain English Guide.”

**R 418.101005 Reimbursement for home health services.**

Rule 1005. (1) Home health services are reimbursed “by report”, requiring submission of a report with the charges on the UB-92 claim form. The carrier shall reimburse the home health agency according to each “by report” procedure listed on the UB-92, billed with the appropriate HCPCS code in accord with R 418.10909.

(2) Home health services shall be reimbursed by the carrier at either the provider’s usual and customary charge as defined by these rules or reasonable amount, whichever is less.

(3) Services listed in “HCPCS, Medicare Level II Codes” as adopted by reference in R 418.10107 as per diem shall be reimbursed per diem or per visit in accord with the description of the code. The per diem visit shall be either at the provider’s usual and customary charge or reasonable amount, whichever is less.

(4) When a home health agency bills for supplies on the UB-92, the supplies shall be reimbursed at AWP, average wholesale price plus not more than a 50% markup above average wholesale price.

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ADMINISTRATIVE RULES

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**ORR # 2001-074**

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**OCCUPATIONAL HEALTH STANDARDS-BENZENE**

Filed with the Secretary of State on January 15, 2002.

This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by section 24 of 1974 PA 154, MCL 408.1024, and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 330.3101 and 445.2001)

R 325.77101 of the Michigan Administrative Code is amended as follows:

**R 325.77101 Scope.**

Rule 1. (1) These rules apply to all occupational exposures to benzene, chemical abstracts service registry no. 71-43-2, except as provided in subrules (2) and (3) of this rule.

(2) These rules do not apply to any of the following:

- (a) The storage, transportation, distribution, dispensing, sale, or use of gasoline, motor fuels, or other fuels that contain benzene after its final discharge from bulk wholesale storage facilities, except that operations which dispense gasoline or motor fuels for more than 4 hours per day in an indoor location are covered by these rules.
- (b) Loading and unloading operations at bulk wholesale storage facilities which use vapor control systems for all loading and unloading operations. However, such operations are subject to the provisions of R 325.77107 and R 325.77109(9) and the hazard communication provisions of sections 14a to 14m of 1974 PA 154, MCL 408.1014a to 408.1014m.
- (c) The storage, transportation, distribution, or sale of benzene or liquid mixtures that contain more than 0.1% benzene in intact containers or in transportation pipelines while sealed in a manner to contain benzene vapors or liquid. However, such storage, transportation, distribution, or sale is subject to the provisions of R 325.77107 and R 325.77109(9) and the hazard communication provisions of sections 14a to 14m 1974 PA 154, MCL 408.1014a to 408.1014m.
- (d) Containers and pipelines that carry mixtures which are less than 0.1% benzene.
- (e) Natural gas-processing plants that process gas which contains less than 0.1% benzene.
- (f) Work operations where the only exposure to benzene is from liquid mixtures that contain 0.5% or less of benzene, by volume, or the vapors released from the liquids until September 12, 1988; work operations where the only exposure to benzene is from liquid mixtures that contain 0.3% or less of benzene, by volume, or the vapors released from the liquids from September 12, 1988, to September 12, 1989; and work operations where the only exposure to benzene is from liquid mixtures that contain 0.1% or less of benzene, by volume, or

the vapors released from the liquids after September 12, 1989; except that tire-building machine operators who use solvents which contain more than 0.1% benzene are subject to the provisions of R 325.77109.

(g) Oil and gas drilling, production, and servicing operations.

(h) Coke oven batteries.

(3) Cleaning and repair operations of barges and tankers that have contained benzene are excluded from the provisions of R 325.77106, R 325.77105(1) to (4), and R 325.77105(6). Engineering and work practice controls shall be used to keep exposures below 10 ppm, unless it is proven to be not feasible.

(4) These rules replace those portions of O.H. rules 2101(5), 2101(8), and 2103 that pertain to benzene for those industries covered by subrule (1) of this rule.

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**ADMINISTRATIVE RULES**

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**ORR 2001-079**

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF COMMERCIAL SERVICES**

**RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION CONTRACTORS**

**GENERAL RULES**

Filed with the Secretary of State on January 8, 2002.

This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by 1980 PA 299, and Executive Reorganization Order No. 1996-2, MCL 339.308 and 445.2001)

The General Rules of the Department of Consumer and Industry Services entitled “Residential Builders and Maintenance and Alteration Contractors,” being R 338.1511 to R 338.1554, are amended by adding R 338.1555 as follows:

**PART 5. COMPLAINTS AND HEARINGS**

**R 338.1555 Preservation of contract rights.**

Rule 55. The affirmative defense for failure to utilize a contractually provided alternative dispute resolution procedure authorized in 2001 PA 113, MCL 339.2412(2) shall only be available in actions brought under a contract entered into and executed after July 31, 2001.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

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*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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PROPOSED ADMINISTRATIVE RULES

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**ORR # 2001-004**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION**

**SUPPLYING WATER TO THE PUBLIC**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 5, 7, 14, and 19 of 1976 PA 399, MCL 325.1005, 325.1007, 325.1014, and 325.1019, and Executive Order No. 1996-1, MCL 330.3101)

R 325.10410 of the Michigan Administrative Code is amended as follows:

**PART 4. PUBLIC NOTIFICATION AND PUBLIC EDUCATION**

**R 325.10410 Public education regarding lead.**

Rule 410. (1) ~~A water system that~~ IF A COMMUNITY WATER SYSTEM OR A NONTRANSIENT NONCOMMUNITY WATER SYSTEM exceeds the lead action level based on tap water samples that are collected in accordance with the provisions of UNDER R 325.10710a, THEN THE SUPPLIER shall deliver the public education materials contained in the provisions of SPECIFIED IN 40 C.F.R. part 141, ' §§141.85(a) and (b), (June 7, 1991JANUARY 26, 2000), which are adopted herein by reference. ~~, in accordance with the requirements in this subrule. Copies of 40 C.F.R. part 141, (June 7, 1991), are available from the United States Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325, at a cost as of the time of adoption of these rules of \$1.50 or the applicable portions are available free of charge from the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, 3423 North Logan/Martin Luther King Jr. Boulevard, P.O. Box 30630, Lansing, Michigan 48909-8130. THE ADOPTED MATERIAL IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS AT THE ADDRESS IN R 325.10116(2) FOR A COST OF \$47.00 AT THE TIME OF ADOPTION OF THESE RULES. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1).~~

(2) In a community where ~~a significant proportion~~ MORE THAN 10% of the population speaks a language other than English, public education materials shall be communicated in the appropriate language or languages.



(3) A THE SUPPLIER OF A community water ~~supplier~~ SYSTEM that ~~fails to meet~~ EXCEEDS the lead action level on the basis of tap water samples ~~that are collected in accordance with the provisions of~~ UNDER R 325.10710a, AND THAT IS NOT ALREADY REPEATING PUBLIC EDUCATION TASKS PURSUANT TO SUBRULES (4), (8), AND (9) OF THIS RULE, shall, within 60 days, do all of the following:

(a) Provide a notice to each customer that contains the information specified in ~~the provision of~~ 40 C.F.R. ~~part 141,~~ §141.85(a)(1), together with the following alert in large print: "Some homes in this community have elevated lead levels in their drinking water. Lead can pose a significant risk to your health. Please read the enclosed notice for further information." THE SUPPLIER OF A COMMUNITY WATER SYSTEM HAVING A BILLING CYCLE THAT DOES NOT INCLUDE A BILLING WITHIN 60 DAYS OF EXCEEDING THE ACTION LEVEL, OR THAT CANNOT INSERT INFORMATION IN THE WATER UTILITY BILL WITHOUT MAKING MAJOR CHANGES TO ITS BILLING SYSTEM, MAY USE A SEPARATE MAILING TO DELIVER THE INFORMATION IN 40 C.F.R. §141.85(a)(1), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, AS LONG AS THE INFORMATION IS DELIVERED TO EACH CUSTOMER WITHIN 60 DAYS OF EXCEEDING THE ACTION LEVEL. THE SUPPLIER SHALL ALSO INCLUDE THE "ALERT" LANGUAGE SPECIFIED IN THIS SUBDIVISION.

(b) Submit the information specified in ~~the provision of~~ 40 C.F.R. ~~part 141,~~ §141.85(a)(1), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(c) Provide pamphlets or brochures that contain the public education materials specified in ~~the provisions of~~ 40 C.F.R. ~~part 141, '141.85(a)(2) and (4)'~~ §§141.85(a)(1)(ii) AND (iv), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, to facilities and organizations, including all of the following:

- (i) Public schools or local school boards.
- (ii) City or county health department.
- (iii) Women, infants, and children (WIC), or head start programs.
- (iv) Public and private hospitals or clinics.
- (v) Pediatricians.
- (vi) Family planning clinics.
- (vii) Local welfare agencies.

(d) Submit the public service announcement specified in ~~the provisions of~~ 40 C.F.R. ~~part 141,~~ §141.85 (b), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, to not less FEWER than 5 of the radio and television stations with the largest audiences that broadcast to the community that is served by the ~~water-supply~~ SYSTEM. For small WATER systems, the public service announcement may be hand delivered to each customer instead of submitting the announcement to radio and television stations.

(4) A THE SUPPLIER OF A community water ~~supplier~~ SYSTEM shall repeat the tasks specified in subrule (3)(a), (b), and (c) of this rule every 12 months and the tasks specified in subrule (3)(d) of this rule every 6 months for as long as the ~~supply~~ SYSTEM exceeds the lead action level.

(5) Within 60 days after ~~it~~ A NONTRANSIENT, NONCOMMUNITY WATER SYSTEM exceeds the lead action level, UNLESS THE SUPPLIER IS ALREADY REPEATING PUBLIC EDUCATION TASKS PURSUANT TO SUBRULE (6) OF THIS RULE, ~~a nontransient, noncommunity water~~ THE supplier shall deliver the public education materials specified in the applicable provisions of 40 C.F.R. ~~141,~~ §141.85(a)(1), ~~(2), and (4)~~ AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, OR THE PUBLIC EDUCATION MATERIALS SPECIFIED BY 40 C.F.R. §141.85(a)(2), as follows:

(a) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the ~~supply~~ SYSTEM.

(b) Distribute informational pamphlets or brochures on lead in drinking water to each person who is routinely served by the nontransient, noncommunity water ~~supply~~ SYSTEM. THE DEPARTMENT MAY ALLOW THE SUPPLIER TO UTILIZE ELECTRONIC TRANSMISSION INSTEAD OF OR COMBINED WITH PRINTED MATERIALS AS LONG AS IT ACHIEVES AT LEAST THE SAME COVERAGE.

(6) ~~A~~ THE SUPPLIER OF A nontransient, noncommunity water ~~supplier~~ SYSTEM shall repeat the tasks specified in subrule (5) of this rule at least once during each calendar year in which the system exceeds the lead action level.

(7) ~~A water~~ supplier may discontinue delivery of public education materials if the ~~supplier~~ SYSTEM SUBJECT TO THIS RULE has met the lead action level during the most recent 6-month monitoring period conducted ~~pursuant to the provisions of~~ UNDER R 325.10710a. The supplier shall recommence public education ~~in accordance with~~ UNDER this rule if it subsequently exceeds the lead action level during ~~any~~ monitoring period.

(8) THE SUPPLIER OF A COMMUNITY WATER SYSTEM MAY APPLY TO THE DEPARTMENT, IN WRITING, UNLESS THE DEPARTMENT HAS WAIVED THE REQUIREMENT FOR PRIOR DEPARTMENT APPROVAL, TO USE THE TEXT SPECIFIED IN 40 C.F.R. §141.85(a)(2), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, INSTEAD OF THE TEXT IN 40 C.F.R. §141.85(a)(1) AND TO PERFORM THE TASKS LISTED IN SUBRULES (5) AND (6) OF THIS RULE INSTEAD OF THE TASKS IN SUBRULES (3) AND (4) OF THIS RULE IF BOTH OF THE FOLLOWING PROVISIONS ARE SATISFIED:

(a) THE SYSTEM IS A FACILITY, SUCH AS A PRISON OR A HOSPITAL, WHERE THE POPULATION SERVED IS NOT CAPABLE OF OR IS PREVENTED FROM MAKING IMPROVEMENTS TO PLUMBING OR INSTALLING POINT OF USE TREATMENT DEVICES.

(b) THE SUPPLIER PROVIDES WATER AS PART OF THE COST OF SERVICES PROVIDED AND DOES NOT SEPARATELY CHARGE FOR WATER CONSUMPTION.

(9) BOTH OF THE FOLLOWING PROVISIONS APPLY TO COMMUNITY WATER SUPPLIES SERVING 3,300 OR FEWER PEOPLE:

(a) IF A COMMUNITY WATER SYSTEM SERVES 3,300 OR FEWER PEOPLE, THEN THE SUPPLIER MAY OMIT THE TASK CONTAINED IN SUBRULE (3)(d) OF THIS RULE. AS LONG AS IT DISTRIBUTES NOTICES CONTAINING THE INFORMATION CONTAINED IN 40 C.F.R. §141.85(a)(1), AS ADOPTED BY REFERENCE IN SUBRULE (1) OF THIS RULE, TO EVERY HOUSEHOLD SERVED BY THE SYSTEM, THOSE SUPPLIERS MAY FURTHER LIMIT THEIR PUBLIC EDUCATION PROGRAMS AS FOLLOWS:

(i) IF A SYSTEM SERVES 500 OR FEWER PEOPLE, THEN THE SUPPLIER MAY FOREGO THE TASK CONTAINED IN SUBRULE (3)(b) OF THIS RULE. THE SUPPLIER MAY LIMIT THE DISTRIBUTION OF THE PUBLIC EDUCATION MATERIALS REQUIRED UNDER SUBRULE (3)(c) OF THIS RULE TO FACILITIES AND ORGANIZATIONS SERVED BY THE SYSTEM THAT ARE MOST LIKELY TO BE VISITED REGULARLY BY PREGNANT WOMEN AND CHILDREN,

UNLESS IT IS NOTIFIED BY THE DEPARTMENT, IN WRITING, THAT IT SHALL MAKE A BROADER DISTRIBUTION.

(ii) IF A SYSTEM SERVES 501 TO 3,300 PEOPLE, THEN THE SUPPLIER, IF APPROVED BY THE DEPARTMENT IN WRITING, MAY OMIT THE TASK IN SUBRULE (3)(b) OF THIS RULE OR LIMIT THE DISTRIBUTION OF THE PUBLIC EDUCATION MATERIALS REQUIRED UNDER SUBRULE (3)(c) OF THIS RULE TO FACILITIES AND ORGANIZATIONS SERVED BY THE SYSTEM THAT ARE MOST LIKELY TO BE VISITED REGULARLY BY PREGNANT WOMEN AND CHILDREN, OR MAY DO BOTH.

(b) THE SUPPLIER OF A COMMUNITY WATER SYSTEM SERVING 3,300 OR FEWER PEOPLE THAT DELIVERS PUBLIC EDUCATION UNDER SUBDIVISION (a)(i) OF THIS SUBRULE SHALL REPEAT THE REQUIRED PUBLIC EDUCATION TASKS AT LEAST ONCE DURING EACH CALENDAR YEAR IN WHICH THE SYSTEM EXCEEDS THE LEAD ACTION LEVEL.

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**PROPOSED ADMINISTRATIVE RULES**

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**ORR # 2001-005**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION**

**SUPPLYING WATER TO THE PUBLIC**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 5, 7, 14, and 19 of 1976 PA 399, MCL 325.1005, 325.1007, 325.1014, and 325.1019, and Executive Order No. 1996-1, MCL 330.3101)

R 325.10604c and R 325.10604f of the Michigan Administrative Code are amended as follows:

**PART 6. STATE DRINKING WATER STANDARDS AND ANALYTICAL TECHNIQUES**

**R 325.10604c MCL for inorganic chemicals.**

Rule 604c. (1) ~~The MCLs for inorganic chemicals shall be as shown in table 6.3. Except as specified, the MCLs and effective dates for inorganic chemicals apply to community water supplies and nontransient, noncommunity water supplies. The MCL for fluoride applies only to community water supplies. The MCLs for nitrate, nitrite, and total nitrate and nitrite apply to community; nontransient, noncommunity; and transient, noncommunity water supplies. The MCL for arsenic applies only to community water supplies. Table 6.3 reads as follows:~~ EXCEPT AS SPECIFIED, THE MCLS AND EFFECTIVE DATES FOR INORGANIC CHEMICALS IN TABLE 1 OF THIS RULE APPLY TO COMMUNITY WATER SYSTEMS AND NONTRANSIENT NONCOMMUNITY WATER SYSTEMS. THE MCLS FOR FLUORIDE AND ARSENIC APPLY ONLY TO COMMUNITY WATER SYSTEMS. THE MCLS FOR NITRATE, NITRITE, AND TOTAL NITRATE AND NITRITE APPLY TO COMMUNITY AND NONCOMMUNITY WATER SYSTEMS.

Table ~~6.3~~ 1

Contaminant	Maximum Contaminant Level in mg/l	Effective Date
Antimony	0.006	January 17, 1994.
Arsenic	0.05	June 24, 1977.
Asbestos	7 million fibers per liter (longer than 10 um)	July 30, 1992.
Barium	2	January 1, 1993.
Beryllium	0.004	January 17, 1994.

Cadmium	0.005	July 30, 1992.
Chromium	0.1	July 30, 1992.
Cyanide (as free cyanide)	0.2	January 17, 1994.
Fluoride	4	October 2, 1987.
Mercury	0.002	July 30, 1992.
Nickel	0.1 MCL WITHDRAWN	<del>January 17, 1994</del> (EFFECTIVE DATE)
Nitrate (as Nitrogen)	10	July 30, 1992.
Nitrite (as Nitrogen)	1	July 30, 1992.
Total Nitrate and Nitrite (as Nitrogen)	10	July 30, 1992.
Selenium	0.05	July 30, 1992.
Thallium	0.002	January 17, 1994.

(2) Compliance with the MCL requirements of this rule shall be determined based on the analytical results that are obtained at each sampling point as specified in R 325.10710.

(3) For suppliers that conduct monitoring more than once each year, compliance with the MCL for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, or thallium is determined by a running annual average at any sampling point. If the average at any sampling point is more than the MCL, then the system is out of compliance. If any 1 sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample that is below the method detection limit shall be calculated at zero for the purpose of determining the annual average.

(4) For suppliers that monitor annually or less frequently, the system is out of compliance with the MCL for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, or thallium if the level of a contaminant at any sampling point is more than the MCL. If a confirmation sample is required by the department, THEN the determination of compliance will be based on the average of the 2 samples.

(5) Compliance with the MCLs for nitrate and nitrite is determined based on 1 sample if the levels of these contaminants are below the MCLs. If the level of nitrate or nitrite or the combination of nitrate and nitrite is more than the MCLs in the initial sample, THEN a confirmation sample is required pursuant to the provisions of R 325.10710(9)(b) and (c), and compliance shall be determined based on the average of the initial and confirmation samples.

(6) THE DEPARTMENT MAY ALLOW NITRATE LEVELS ABOVE 10 MILLIGRAMS PER LITER BUT NOT MORE THAN 20 MILLIGRAMS PER LITER IN A NONCOMMUNITY WATER SYSTEM IF THE SUPPLIER DEMONSTRATES, TO THE SATISFACTION OF THE DEPARTMENT, ALL OF THE FOLLOWING:

(a) A PERMANENT ALTERNATE SOURCE OF WATER MEETING STATE DRINKING WATER STANDARDS CAN NOT BE OBTAINED.

(b) THE WATER WILL NOT BE AVAILABLE TO CHILDREN UNDER 6 MONTHS OF AGE.

(c) WATER MEETING STATE DRINKING WATER STANDARDS, SUCH AS BOTTLED WATER, WILL BE PROVIDED TO THOSE WHO REQUEST IT.

(d) THERE IS CONTINUOUS POSTING AT ALL DRINKING WATER OUTLETS AVAILABLE TO THE PUBLIC THAT NITRATE LEVELS EXCEED 10 MG/L AND THE POTENTIAL HEALTH EFFECTS OF EXPOSURE AS SPECIFIED IN PART 4 OF THESE RULES.

(e) ADVERSE HEALTH EFFECTS ARE NOT DOCUMENTED.

**R 325.10604f Treatment techniques for lead and copper.**

Rule 604f. (1) ~~All of the following provisions are general requirements with respect to~~ Treatment techniques for lead and copper ARE AS FOLLOWS:

(a) The requirements of this rule constitute the drinking water standards for lead and copper. Unless otherwise indicated, ~~each of the provisions of this rule applies to community water supplies~~ SYSTEMS and nontransient, noncommunity water supplies SYSTEMS.

(b) These regulations establish a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples that are collected at consumers' taps.

(c) The lead action level is exceeded if the ninetieth percentile lead level is more than 0.015 milligrams per liter (mg/l) in tap water samples ~~that are collected during any A monitoring period that is conducted in accordance with the provisions of~~ UNDER R 325.10710a.

The copper action level is exceeded if the ninetieth percentile copper level is more than 1.3 mg/l in tap water samples ~~that are collected during any A monitoring period that is conducted in accordance with the provisions of~~ UNDER R 325.10710a.

The ninetieth percentile lead and copper levels shall be computed as follows:

(i) The results of all lead or copper samples ~~that are~~ taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

(ii) The number of samples ~~that is~~ taken during the monitoring period shall be multiplied by 0.9.

(iii) The contaminant concentration in the numbered sample yielded by the calculation in paragraph (ii) of this subdivision is the ninetieth percentile contaminant level.

(iv) ~~For water supplies for which suppliers collect~~ IF A TOTAL OF 5 samples ARE COLLECTED per monitoring period, the ninetieth percentile is computed by taking the average of the highest and second highest concentrations. If ~~less~~ FEWER than 5 samples are collected, the ninetieth percentile is the highest concentration in ~~any~~ 1 sample for purposes of this rule.

(d) ~~A water supplier shall install and operate optimal corrosion control treatment on the supplier's water system in accordance with the provisions of~~ UNDER subrules (2) and (3) of this rule. ~~Any water supply A SYSTEM that is in compliance with the applicable corrosion control treatment requirements specified by the department pursuant to the provisions of~~ UNDER subrules (2) and (3) of this rule ~~shall be deemed to be~~ IS in compliance with the treatment requirement.

(e) ~~For any supply that~~ IF A SYSTEM exceeds the lead or copper action level, ~~a~~ THE supplier shall implement all applicable source water treatment requirements specified by the department ~~pursuant to the provisions of~~ UNDER subrule (4) of this rule.

(f) ~~For any supply that~~ IF A SYSTEM exceeds the lead action level after implementation of applicable corrosion control and source water treatment requirements, ~~a~~ THE supplier shall complete the lead service line replacement requirements contained in subrule (5) of this rule.

(g) ~~For any supply that~~ IF A SYSTEM exceeds the lead action level, ~~a~~ THE supplier shall implement the public education requirements specified in R 325.10410.

(h) Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results ~~pursuant to the provisions of~~ UNDER this subrule

shall be completed ~~in compliance with the provisions of~~ PURSUANT TO ~~R 325.10609~~ R 325.10605, R 325.10710a, R 325.10710b, and R 325.10710c.

(i) A supplier shall report, to the department, ~~any~~ THE information ~~that is~~ required by the treatment provisions of this subrule and R 325.10710d.

(j) A supplier shall maintain records ~~in accordance with the provisions of~~ UNDER R 325.11506(1)(e).

(k) Failure to comply with the applicable requirements of this rule, R 325.10410, R 325.10710a, R 325.10710b, R 325.10710c, ~~R 325.10609~~ R 325.10605, R 325.10710d, and R 325.11506(1)(e) constitutes a violation of the drinking water standards for lead or copper, as applicable.

(2) ~~All of the following provisions pertain to the applicability of~~ Corrosion control treatment steps APPLY to small, medium-size, and large ~~supplies~~ WATER SYSTEMS AS FOLLOWS:

(a) A supplier shall complete the applicable corrosion control treatment requirements described in subrule (3) of this rule by the deadlines established in this rule. The ~~owner~~ SUPPLIER of a large ~~supply~~ WATER SYSTEM (serving more than 50,000 persons) shall complete the corrosion control treatment steps specified in subdivision (d) of this subrule, unless the supplier is ~~deemed~~ CONSIDERED to have optimized corrosion control ~~pursuant to the provisions of~~ UNDER subdivision (b)(ii) or (iii) of this subrule. The ~~owner~~ SUPPLIER of a small ~~supply~~ WATER SYSTEM (serving 3,300 or fewer persons) or a medium-size ~~supply~~ WATER SYSTEM (serving more than 3,300, but ~~less~~ FEWER than 50,001, persons) shall complete the corrosion control treatment steps specified in subdivision (e) OF THIS SUBRULE unless the supplier is ~~deemed~~ CONSIDERED to have optimized corrosion control ~~pursuant to the provisions of~~ UNDER subdivision (b)(i), (ii), or (iii) of this subrule.

(b) A supplier is ~~deemed~~ CONSIDERED to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in subrule (3) of this rule if the ~~supply~~ SYSTEM is in compliance with 1 of the ~~following~~ criteria: SPECIFIED IN PARAGRAPHS (i) THROUGH (iii) OF THIS SUBDIVISION. A SUPPLIER WHICH IS CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS SUBDIVISION AND WHICH HAS TREATMENT IN PLACE SHALL CONTINUE TO OPERATE AND MAINTAIN OPTIMAL CORROSION CONTROL TREATMENT AND MEET THE REQUIREMENTS THAT THE DEPARTMENT DETERMINES APPROPRIATE TO ENSURE OPTIMAL CORROSION CONTROL TREATMENT IS MAINTAINED. ALL OF THE FOLLOWING PROVISIONS APPLY TO BEING CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL:

(i) A supplier of a small or medium-size water ~~supply~~ SYSTEM is ~~deemed~~ CONSIDERED to have optimized corrosion control if the ~~supply~~ SYSTEM is in compliance with the lead and copper action levels during each of 2 consecutive 6-month monitoring periods during which monitoring is conducted ~~in accordance with the provisions of~~ UNDER R 325.10710a.

(ii) ~~Any water~~ A supplier may be ~~deemed~~ CONSIDERED by the department to have optimized corrosion control treatment if the supplier demonstrates, to the satisfaction of the department, that it has conducted activities equivalent to the corrosion control steps ~~that are~~ applicable to the ~~supply pursuant to the provisions of~~ SYSTEM UNDER subrule (3) of this rule. SUPPLIERS CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS SUBDIVISION SHALL OPERATE IN COMPLIANCE WITH THE DEPARTMENT-DESIGNATED OPTIMAL WATER QUALITY CONTROL PARAMETERS UNDER SUBRULE (3)(f) OF THIS RULE AND CONTINUE TO CONDUCT LEAD AND COPPER TAP AND WATER QUALITY PARAMETER SAMPLING UNDER R 325.10710a(4)(c) AND R 325.10710b(4), RESPECTIVELY. A supplier shall provide the department with all of the following information to support a determination ~~pursuant to the provisions of~~ UNDER this subdivision:

(A) The results of all test samples collected for each of the water quality parameters specified in ~~the provisions of subrule (3)(c)(iii) of this rule.~~

(B) A report that explains the test methods used by the ~~water~~ supplier to evaluate the corrosion control treatments listed in subrule (3) of this rule, the results of all tests conducted, and the basis for the supplier's selection of optimal corrosion control treatment.

(C) A report that explains how corrosion control has been installed and how it is being maintained to ensure minimal lead and copper concentrations at consumers' taps.

(D) The results of tap water samples collected ~~in accordance with the provisions of~~ UNDER R 325.10710a at least once every 6 months for 1 year after corrosion control has been installed.

(iii) ~~Any water~~ A supplier is ~~deemed~~ CONSIDERED to have optimized corrosion control for the supply SYSTEM if it submits results of tap water monitoring conducted ~~in accordance with the provisions of~~ UNDER R 325.10710a and source water monitoring conducted ~~in accordance with the provisions of~~ UNDER R 325.10710c that demonstrates, for 2 consecutive 6-month monitoring periods, that the difference between the ninetieth percentile tap water lead level computed ~~pursuant to the provisions of~~ UNDER subrule (1)(c) of this rule and the highest source water lead concentration is less than the practical quantitation level for lead.

(A) A SUPPLIER OF A SYSTEM WHERE THE HIGHEST SOURCE WATER LEAD LEVEL IS BELOW THE METHOD DETECTION LIMIT IS CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS PARAGRAPH IF THE SYSTEM'S NINETIETH PERCENTILE TAP WATER LEAD LEVEL IS LESS THAN OR EQUAL TO THE PRACTICAL QUANTITATION LEVEL FOR LEAD FOR 2 CONSECUTIVE 6-MONTH MONITORING PERIODS.

(B) A SUPPLIER CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS PARAGRAPH SHALL CONTINUE MONITORING FOR LEAD AND COPPER AT THE TAP NOT LESS FREQUENTLY THAN ONCE EVERY 3 CALENDAR YEARS USING THE REDUCED NUMBER OF SITES SPECIFIED IN R 325.10710a(3) AND COLLECTING THE SAMPLES AT TIMES AND LOCATIONS SPECIFIED IN R 325.10710a(4)(d)(iv).

(C) A SUPPLIER CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL PURSUANT TO THIS SUBDIVISION SHALL NOTIFY THE DEPARTMENT, IN WRITING, PURSUANT TO R 325.10710d(a)(iii) OF A CHANGE IN TREATMENT OR THE ADDITION OF A NEW SOURCE. THE DEPARTMENT MAY REQUIRE THE SUPPLIER TO CONDUCT ADDITIONAL MONITORING OR TO TAKE OTHER ACTION THE DEPARTMENT CONSIDERS APPROPRIATE CONSISTENT WITH THE REQUIREMENTS OF R 325.10604f(2) TO ENSURE THAT THE SUPPLIER MAINTAINS MINIMAL LEVELS OF CORROSION IN THE DISTRIBUTION SYSTEM.

(D) AS OF JULY 12, 2001, A SUPPLIER IS NOT CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS SUBDIVISION, AND SHALL IMPLEMENT CORROSION CONTROL TREATMENT PURSUANT TO SUBDIVISION (b)(iii)(E) OF THIS SUBRULE UNLESS IT MEETS THE COPPER ACTION LEVEL.

(E) A SUPPLIER THAT IS NO LONGER CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS SUBDIVISION SHALL IMPLEMENT CORROSION CONTROL TREATMENT UNDER THE DEADLINES IN SUBDIVISION (e) OF THIS SUBRULE. THE SUPPLIER OF A LARGE WATER SYSTEM SHALL ADHERE TO THE SCHEDULE SPECIFIED IN THAT SUBDIVISION FOR MEDIUM-SIZE WATER SYSTEMS, WITH THE TIME PERIODS FOR COMPLETING EACH STEP BEING TRIGGERED BY THE DATE THE SUPPLIER IS NO LONGER CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER THIS SUBDIVISION.

(c) ~~For any small or medium size water supply that is required to complete the corrosion control steps due to its exceeding the lead or copper action level,~~ IF A SMALL OR MEDIUM-SIZE WATER SYSTEM EXCEEDS



THE LEAD OR COPPER ACTION LEVEL AND THE SUPPLIER IS REQUIRED TO PERFORM THE CORROSION CONTROL TREATMENT STEPS, the supplier may cease completing the treatment steps when the ~~supply~~ SYSTEM is in compliance with both action levels during each of 2 CONSECUTIVE monitoring periods conducted ~~pursuant to the provisions of~~ UNDER R 325.10710a and the supplier submits the results to the department. If the ~~water supply~~ SYSTEM thereafter exceeds the lead or copper action level during any A monitoring period, ~~then completion of the applicable treatment steps~~ THE SUPPLIER shall recommence THE APPLICABLE TREATMENT STEPS beginning with the first treatment step that was not previously completed in its entirety. The department may require a ~~system~~ SUPPLIER to repeat treatment steps that were previously completed by the supplier if the department determines that this is necessary to properly implement the treatment requirements of this rule. ~~The requirement for the owner of any small or medium-sized water system to implement corrosion control treatment steps in accordance with subdivision (e) of this subrule, including systems deemed to have optimized corrosion control under subdivision (b) of this subrule is triggered when any small or medium-sized system exceeds the lead or copper action level.~~ IF A SMALL OR MEDIUM-SIZE WATER SYSTEM EXCEEDS THE LEAD OR COPPER ACTION LEVEL, THE SUPPLIER, INCLUDING SUPPLIERS CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER SUBDIVISION (b) OF THIS RULE, SHALL IMPLEMENT CORROSION CONTROL TREATMENT STEPS UNDER SUBDIVISION (e) OF THIS SUBRULE.

(d) Except as provided in subdivisions (b)(ii) and (iii) of this subrule, ~~an owner~~ A SUPPLIER of a large ~~supply~~ WATER SYSTEM shall complete ALL OF the following corrosion control treatment steps by the indicated dates:

(i) Step 1: A supplier shall conduct initial monitoring during 2 CONSECUTIVE 6-month monitoring periods by January 1, 1993.

(ii) Step 2: A supplier shall complete corrosion control studies by July 1, 1994.

(iii) Step 3: By January 1, 1997, a supplier shall install optimal corrosion control treatment as designated by the department.

(iv) Step 4: A supplier shall complete follow-up sampling by January 1, 1998.

(v) Step 5: A supplier shall operate in compliance with the department-specified optimal water quality control parameters and continue to conduct tap sampling.

(e) Except as provided in subdivision (b) of this subrule, the ~~owners~~ SUPPLIERS of small and medium-size ~~supplies~~ WATER SYSTEMS shall complete ALL OF the following corrosion control treatment steps by the indicated time periods:

(i) Step 1: A supplier shall conduct initial tap sampling until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring. The ~~owner~~ SUPPLIER of a ~~supply~~ SYSTEM that exceeds the lead or copper action level shall recommend optimal corrosion control treatment within 6 months after the ~~supply~~ SYSTEM exceeds 1 of the action levels.

(ii) Step 2: Within 12 months after a ~~supply~~ SYSTEM exceeds the lead or copper action level, the department may require the supplier to perform corrosion control studies.

(iii) Step 3: If the department requires a supplier to perform corrosion control studies, the supplier shall complete the studies within 18 months after the department requires that the studies be conducted.

(iv) Step 4: A supplier shall install optimal corrosion control treatment within 24 months after the department designates the treatment.

(v) Step 5: A supplier shall complete follow-up sampling within 36 months after the department designates optimal corrosion control treatment.

(vi) Step 6: A supplier shall operate in compliance with the department-designated optimal water quality control parameters and continue to conduct tap sampling.

(3) A supplier shall complete all of the following corrosion control treatment requirements ~~which are described in this subrule and which~~ THAT are applicable to the supply pursuant to the provisions of SYSTEM UNDER subrule (2) of this rule:

(a) Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, the ~~owners~~ SUPPLIERS of small and medium-size water supplies SYSTEMS that exceed the lead or copper action level shall recommend the installation of 1 or more of the corrosion control treatments listed in subdivision (c)(i) of this subrule that the supplier believes constitutes optimal corrosion control for that supply SYSTEM. The department may require the supplier to conduct additional water quality parameter monitoring ~~in accordance with the provisions of~~ UNDER R325.10710b(b)(4) to assist the department in reviewing the supplier's recommendation.

~~(b) For small and medium-size supplies, perform studies of corrosion control treatment that are required by the department. When required by the department, the owner~~ SUPPLIER of any small or medium-size supply WATER SYSTEM that exceeds the lead or copper action level shall perform corrosion control studies pursuant to the provisions of UNDER subdivision (c) of this subrule to identify optimal corrosion control treatment for the supply SYSTEM.

(c) Perform corrosion control studies as follows:

(i) A ~~public water~~ supplier that performs corrosion control studies shall evaluate the effectiveness of each of the following treatments and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that supply SYSTEM:

(A) Alkalinity and pH adjustment.

(B) Calcium hardness adjustment.

(C) The addition of a phosphate or silicate-based corrosion inhibitor at a concentration ~~that is~~ sufficient to maintain an effective residual concentration in all test tap samples.

~~(ii) The owner of the water supply~~ THE SUPPLIER shall evaluate each of the corrosion control treatments using pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other supplies SYSTEMS of similar size, water chemistry, and distribution system configuration.

~~(iii) A water supplier shall measure all of the following water quality parameters in any tests that are conducted pursuant to the provisions of~~ UNDER this paragraph before and after evaluating the corrosion control treatments listed in ~~subrule (3)(c)(i)(a) to (c) of this rule~~ PARAGRAPH (i)(A) TO (C) OF THIS SUBDIVISION:

(A) Lead.

(B) Copper.

(C) pH.

(D) Alkalinity.

(E) Calcium.

(F) Conductivity.

(G) Orthophosphate, when an inhibitor ~~that~~ containsING a phosphate compound is used.

(H) Silicate, when an inhibitor ~~that~~ containsING a silicate compound is used.

(I) Water temperature.

(iv) The ~~water~~ supplier shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and shall document the constraints with ~~one~~ 1 or both of the following:

(A) Data and documentation ~~that~~ demonstratesING that a particular corrosion control treatment has adversely affected other water treatment processes when used by another ~~water supply~~ SYSTEM with comparable water quality characteristics.

(B) Data and documentation ~~that demonstrates~~ING that the ~~water~~ supplier has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(v) A ~~water~~ supplier shall evaluate the effect of the chemicals used for corrosion control treatment in other water quality treatment processes.

(vi) On the basis of an analysis of the data generated during each evaluation, a ~~water~~ supplier shall recommend, to the department, in writing, the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The ~~water~~ supplier shall provide a rationale for its recommendation together with all supporting documentation specified in paragraphs (i) to (v) of this subdivision.

(d) Department designation of optimal corrosion control treatment as follows:

(i) Based ~~upon~~ consideration of available information, including, where applicable, studies performed ~~pursuant to the provisions of~~ UNDER subdivision (c) of this subrule and a supplier's recommended treatment alternative, the department will either approve the corrosion control treatment option recommended by the supplier or will designate alternative corrosion control treatment from the treatment specified in subdivision (c)(i) of this subrule. When designating optimal treatment, the department shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(ii) If the department requests additional information to aid its review, the ~~water system~~ SUPPLIER shall provide the information.

(e) Each supplier shall properly install and operate, throughout its distribution system, the optimal corrosion control treatment designated by the department.

(f) ~~All suppliers shall maintain water quality parameter values at or above minimum values or within ranges designated by the department in each sample that is collected pursuant to the provisions of R 325.10710b(d). If the water quality parameter value of any sample is below the minimum value or outside the range designated by the department, then the system is out of compliance with the provisions of this subdivision. As specified in R 325.10710b(d), a supplier may take a confirmation sample for any water quality parameter value not more than 3 days after the first sample. If a confirmation sample is taken, the result shall be averaged with the first sampling result and the average shall be used for any compliance determinations specified in this subrule. ALL SUPPLIERS OPTIMIZING CORROSION CONTROL SHALL CONTINUE TO OPERATE AND MAINTAIN OPTIMAL CORROSION CONTROL TREATMENT, INCLUDING MAINTAINING WATER QUALITY PARAMETERS AT OR ABOVE MINIMUM VALUES OR WITHIN RANGES DESIGNATED BY THE DEPARTMENT, UNDER THIS SUBDIVISION FOR ALL SAMPLES COLLECTED UNDER R 325.10710b(6) THROUGH (8). COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBDIVISION SHALL BE DETERMINED EVERY 6 MONTHS, AS SPECIFIED UNDER R 325.10710b(6). A SYSTEM IS OUT OF COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBDIVISION FOR A 6-MONTH PERIOD IF IT HAS EXCURSIONS FOR A DEPARTMENT-SPECIFIED PARAMETER ON MORE THAN 9 DAYS DURING THE PERIOD. AN EXCURSION OCCURS WHEN THE DAILY VALUE FOR 1 OR MORE OF THE WATER QUALITY PARAMETERS MEASURED AT A SAMPLING LOCATION IS BELOW THE MINIMUM VALUE OR OUTSIDE THE RANGE DESIGNATED BY THE DEPARTMENT. The department may delete results of obvious sampling errors from this calculation. DAILY VALUES ARE CALCULATED AS FOLLOWS:~~

(i) ON DAYS WHEN MORE THAN 1 MEASUREMENT FOR THE WATER QUALITY PARAMETER IS COLLECTED AT THE SAMPLING LOCATION, THE DAILY VALUE SHALL BE THE AVERAGE OF ALL RESULTS COLLECTED DURING THE DAY REGARDLESS OF WHETHER THEY ARE

COLLECTED THROUGH CONTINUOUS MONITORING, GRAB SAMPLING, OR A COMBINATION OF BOTH.

(ii) ON DAYS WHEN ONLY 1 MEASUREMENT FOR THE WATER QUALITY PARAMETER IS COLLECTED AT THE SAMPLING LOCATION, THE DAILY VALUE SHALL BE THE RESULT OF THAT MEASUREMENT.

(iii) ON DAYS WHEN A MEASUREMENT IS NOT COLLECTED FOR THE WATER QUALITY PARAMETER AT THE SAMPLING LOCATION, THE DAILY VALUE SHALL BE THE DAILY VALUE CALCULATED ON THE MOST RECENT DAY ON WHICH THE WATER QUALITY PARAMETER WAS MEASURED AT THE SAMPLE SITE.

(g) The department's determination of the optimal corrosion control treatment specified in subdivision (d) of this subrule or optimal water quality control parameters may be modified by the department. If a request for modification is by a supplier or other interested party PERSON, the request shall be in writing, shall explain why the modification is appropriate, and shall provide supporting documentation. The department may modify its determination where it concludes that a change is necessary to ensure that the supply SUPPLIER continues to optimize corrosion control treatment.

(4) A supplier shall complete the applicable source water monitoring and treatment requirements by the following deadlines:

(a) The deadlines for completing source water treatment steps are as follows:

(i) Step 1: The ~~owner~~ SUPPLIER of a ~~supply~~ SYSTEM that exceeds the lead or copper action level shall complete lead and copper source water monitoring and make a treatment recommendation to the department within 6 months after exceeding the lead or copper action level.

(ii) Step 2 If the department requires installation of source water treatment, the supplier shall install the treatment within 24 months after the date of written notification by the department.

(iii) Step 3: The supplier shall complete follow-up tap water monitoring and source water monitoring within 36 months after the date of written notification by the department.

(iv) Step 4: A supplier shall operate a system in compliance with the department-specified maximum permissible lead and copper source water levels and shall continue source water monitoring.

~~(b) All of the following provisions apply to s~~Source water treatment requirements ARE AS FOLLOWS:

(i) The ~~owner~~ SUPPLIER of a ~~supply~~ SYSTEM that exceeds the lead or copper action level shall recommend, in writing, to the department, the installation and operation of 1 of the source water treatments listed in paragraph (ii) of this subdivision. A supplier may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(ii) If the department determines that source water treatment is needed to minimize lead or copper levels in water that is delivered to users' taps, the department will either require installation and operation of the source water treatment recommended by the supplier or require the installation and operation of another source water treatment from among the following alternatives:

(A) Ion exchange.

(B) Reverse osmosis.

(C) Lime softening.

(D) Coagulation/filtration.

If the department requests additional information to aid in its review, the supplier shall provide the information by the date specified by the department in its request.

(iii) A supplier shall properly install and operate the source water treatment designated by the department pursuant to the provisions of UNDER paragraph (ii) of this subdivision.

(iv) A supplier shall maintain lead and copper levels below the maximum permissible concentrations ~~that are designated by the department at each sampling point that is monitored in accordance with the provisions of~~ UNDER R 325.10710c. A ~~supply~~ SYSTEM is out of compliance with this subrule if the level of lead or copper at ~~any~~ sampling point is more than the maximum permissible concentration designated by the department.

(v) Upon its own initiative or in response to a request by a ~~water~~ supplier or other interested ~~party~~ PERSON, the department may modify its determination of the source water treatment or maximum permissible lead and copper concentrations for finished water entering the distribution system. A request for modification by a supplier or other interested ~~party~~ PERSON shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The department may modify its determination where it concludes that a change is necessary to ensure that the ~~system~~ SUPPLIER continues to minimize lead and copper concentrations in source water.

(5) Lead service line replacement requirements are as follows:

(a) A supplier ~~OF A SYSTEM that fails to meet~~ EXCEEDS the lead action level in tap samples taken pursuant to R 325.10710a(4)(b) after installing corrosion control or source water treatment, or both, whichever sampling occurs later, shall replace lead service lines ~~in accordance with~~ UNDER the requirements of this subrule. If a supplier is in violation of ~~the provisions of R 325.10604f(2) or R 325.10604f(4)~~ SUBRULE (2) OR (4) OF THIS RULE for failure to install source water or corrosion control treatment, then the department may require the supplier to commence lead service line replacement after the date that the supplier was required to conduct monitoring ~~pursuant to the provisions of~~ UNDER R 325.10710a(4)(b).

(b) Annually, a supplier shall replace not less than 7% of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place ~~at the time~~ WHEN the replacement program begins. The supplier shall identify the initial number of lead service lines in its distribution system, INCLUDING AN IDENTIFICATION OF THE PORTION OR PORTIONS OWNED BY THE SYSTEM, based ~~upon~~ a materials evaluation, including the evaluation required ~~pursuant to the provisions of~~ UNDER R 325.10710a(1) AND RELEVANT LEGAL AUTHORITIES, FOR EXAMPLE, CONTRACTS AND LOCAL ORDINANCES REGARDING THE PORTION OWNED BY THE SYSTEM. The first year of lead service line replacement shall begin on the date that the action level was exceeded in tap sampling referenced in subdivision (a) of this subrule.

(c) A supplier is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken ~~pursuant to the provisions of~~ UNDER R 325.10710a(2)(c), is less than or equal to 0.015 mg/l.

(d) ~~A supplier shall replace the entire service line up to the building inlet, unless it demonstrates, to the satisfaction of the department pursuant to the provisions of subdivision (e) of this subrule that it controls less than the entire service line. In such cases, the supplier shall replace the portion of the line that the department determines is under the supplier's control. The supplier shall notify the user served by the line that the supplier will replace the portion of the service line under its control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water supplier shall inform the resident or residents that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident or residents so desire. If the resident or residents accept the offer, the supplier shall collect the sample and report the results to the resident or residents within 14 days after the partial lead service line replacement.~~ A SUPPLIER SHALL REPLACE THAT PORTION OF THE LEAD SERVICE LINE THAT THE SYSTEM OWNS. IF THE SYSTEM DOES NOT OWN THE ENTIRE LEAD SERVICE LINE, THE SUPPLIER SHALL NOTIFY THE OWNER OF THE LINE, OR THE OWNER'S AUTHORIZED

AGENT, THAT THE SUPPLIER WILL REPLACE THE PORTION OF THE SERVICE LINE THAT IT OWNS AND SHALL OFFER TO REPLACE THE OWNER'S PORTION OF THE LINE. A SUPPLIER IS NOT REQUIRED TO BEAR THE COST OF REPLACING THE PRIVATELY OWNED PORTION OF THE LINE, NOR IS IT REQUIRED TO REPLACE THE PRIVATELY OWNED PORTION WHERE THE OWNER CHOOSES NOT TO PAY THE COST OF REPLACING THE PRIVATELY OWNED PORTION OF THE LINE, OR WHERE REPLACING THE PRIVATELY OWNED PORTION WOULD BE PRECLUDED BY STATE, LOCAL, OR COMMON LAW. A SUPPLIER THAT DOES NOT REPLACE THE ENTIRE LENGTH OF THE SERVICE LINE ALSO SHALL COMPLETE BOTH OF THE FOLLOWING TASKS:

(i) NOT LESS THAN 45 DAYS BEFORE COMMENCING WITH THE PARTIAL REPLACEMENT OF A LEAD SERVICE LINE, THE SUPPLIER SHALL PROVIDE NOTICE TO THE RESIDENT OR RESIDENTS OF ALL BUILDINGS SERVED BY THE LINE EXPLAINING THAT THEY MAY EXPERIENCE A TEMPORARY INCREASE OF LEAD LEVELS IN THEIR DRINKING WATER, ALONG WITH GUIDANCE ON MEASURES CONSUMERS CAN TAKE TO MINIMIZE THEIR EXPOSURE TO LEAD. THE SUPPLIER MAY PROVIDE NOTICE UNDER THE PREVIOUS SENTENCE LESS THAN 45 DAYS BEFORE COMMENCING PARTIAL LEAD SERVICE LINE REPLACEMENT WHERE THE REPLACEMENT IS IN CONJUNCTION WITH EMERGENCY REPAIRS. IN ADDITION, THE SUPPLIER SHALL INFORM THE RESIDENT OR RESIDENTS SERVED BY THE LINE THAT THE SUPPLIER WILL, AT THE SUPPLIER'S EXPENSE, COLLECT A SAMPLE FROM EACH PARTIALLY REPLACED LEAD SERVICE LINE THAT IS REPRESENTATIVE OF THE WATER IN THE SERVICE LINE FOR ANALYSIS OF LEAD CONTENT, AS PRESCRIBED UNDER R 325.10710a(2)(c), WITHIN 72 HOURS AFTER THE COMPLETION OF THE PARTIAL REPLACEMENT OF THE SERVICE LINE. THE SUPPLIER SHALL COLLECT THE SAMPLE AND REPORT THE RESULTS OF THE ANALYSIS TO THE OWNER AND THE RESIDENT OR RESIDENTS SERVED BY THE LINE WITHIN 3 BUSINESS DAYS OF RECEIVING THE RESULTS. MAILED NOTICES POSTMARKED WITHIN 3 BUSINESS DAYS OF RECEIVING THE RESULTS ARE SATISFACTORY.

(ii) THE SUPPLIER SHALL PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH (i) OF THIS SUBDIVISION TO THE RESIDENTS OF INDIVIDUAL DWELLINGS BY MAIL OR BY OTHER METHODS APPROVED BY THE DEPARTMENT. IF MULTIFAMILY DWELLINGS ARE SERVED BY THE LINE, THE SUPPLIER SHALL HAVE THE OPTION TO POST THE INFORMATION AT A CONSPICUOUS LOCATION.

~~(e) A water supplier is presumed to control the entire lead service line up to the building inlet, unless the supplier demonstrates to the satisfaction of the department as documented in writing submitted pursuant to the provisions of R 325.10710d(e)(iv), that it does not have any of the following forms of control over the entire line, as defined by state statutes, municipal ordinances, public service contracts or other applicable legal authority:~~

~~(i) Authority to set standards for the construction, repair, or maintenance of the line.~~

~~(ii) Authority to replace, repair, or maintain the service line.~~

~~(iii) Ownership of the service line.~~

~~(f) A supplier may cease replacing lead service lines when first-draw samples that are collected pursuant to the provisions of UNDER R 325.10710a(2)(b) meet the lead action level during each of 2 consecutive monitoring periods and the supplier submits the results to the department. If the first-draw samples in a water system thereafter exceed the lead action level, the supplier shall recommence replacing lead service lines pursuant to the provisions of UNDER subdivision (b) of this subrule.~~

~~(g)~~(f) To demonstrate compliance with subdivisions (a) to (d) of this subrule, a supplier shall report the information specified in R 325.10710d~~(4)~~(e) to the department.

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PROPOSED ADMINISTRATIVE RULES

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ORR # 2001-006

DEPARTMENT OF ENVIRONMENTAL QUALITY

DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION

SUPPLYING WATER TO THE PUBLIC

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 5, 7, 14, and 19 of 1976 PA 399, MCL 325.1005, 325.1007, 325.1014, and 325.1019, and Executive Order No. 1996-1, MCL 330.3101)

R 325.10705, R 325.10710, R 325.10710a to R 325.10710d, R 325.10716, and R 325.10717b of the Michigan Administrative Code are amended, and R 325.10736 and R 325.10738 of the Code are rescinded as follows:

**PART 7. SURVEILLANCE, INSPECTION, AND MONITORING**

**R 325.10705 Collection and analysis of samples for coliform bacteria; ~~type I public water supplies~~ COMMUNITY WATER SYSTEMS.**

Rule 705. (1) A supplier of water of a ~~type I public water supply~~ COMMUNITY WATER SYSTEM shall collect samples of water to be analyzed for the presence of coliform bacteria at sites which are representative of water throughout the distribution system according to a written sample siting plan that is subject to department review and revision.

(2) The monitoring frequency for total coliforms for a ~~type I water supply~~ COMMUNITY WATER SYSTEM is based on the population served by the ~~supply~~ SYSTEM as set forth in table 7.1 OF THIS RULE:

TABLE 7.1 Total Coliform Monitoring Frequency for Community Water Supplies

Population Served	Minimum Number of Samples Per Month
25 to 1,000+ *	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5



4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

\*1 Includes public water supplies which have not less than 15 service connections, but which serve less FEWER than 25 persons.

(3) If a ~~type I water supply~~ COMMUNITY WATER SYSTEM that serves 25 to 1,000 persons does not have a history of total coliform contamination in its current configuration and a sanitary survey conducted in the past 5 years shows that the ~~water supply~~ SYSTEM is supplied solely by a protected groundwater source and is free of sanitary defects, the department may reduce the monitoring frequency specified in table 1 of ~~these~~ IS rules, except that the department shall not reduce the monitoring frequency to less than 1 sample per quarter. To be valid, the reduced monitoring frequency shall be approved, in writing, by the department.

(4) Suppliers of water for all ~~type I and type II water supplies~~ COMMUNITY WATER SYSTEMS AND NONCOMMUNITY WATER SYSTEMS shall collect samples at regular time intervals throughout the monitoring period, except for those groundwater supplies which serve less FEWER than 4,901 persons and

which are not influenced by surface water. Groundwater suppliers that serve less FEWER than 4,901 persons may collect all required samples on a single day if the samples are taken from different sites.

**R 325.10710 Collection and analysis of samples for inorganic chemicals.**

Rule 710. (1) Suppliers of water of ~~type I and type II public water supplies~~ COMMUNITY WATER SYSTEMS AND NONCOMMUNITY WATER SYSTEMS shall collect water samples and cause analyses to be made for inorganic chemicals to determine compliance with the state drinking water standards as set forth in R 325.10604c. ~~Each public water supply~~ SUPPLIERS shall monitor at the time designated by the department during each compliance period.

(2) The department may require samples to be collected and analyzed at a prescribed frequency for inorganic chemicals for type III public water supplies.

(3) Beginning in the initial compliance period, ~~type I~~ SUPPLIERS OF COMMUNITY WATER SYSTEMS and nontransient, noncommunity water suppliers SYSTEMS shall ~~conduct monitoring in accordance with~~ UNDER this rule to determine compliance with the MCLs for inorganic contaminants outlined in R 325.10604c. BEGINNING IN THE INITIAL COMPLIANCE PERIOD, SUPPLIERS OF transient, noncommunity water suppliers SYSTEMS shall ~~conduct monitoring~~ UNDER THIS RULE to determine compliance with the nitrate, nitrite, and total nitrate and nitrite MCLs in R 325.10604c, ~~table 6.3, in accordance with this rule, beginning in the initial compliance period.~~

(4) SUPPLIERS SHALL MONITOR ~~Monitoring shall be conducted~~ as follows:

(a) Suppliers of water from groundwater systems shall take a minimum of 1 sample at every entry point to the distribution system ~~that is~~ representative of each well after treatment. The supplier shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(b) Suppliers of water from surface water systems, or combined surface water and groundwater systems, shall take a minimum of 1 sample at every entry point to the distribution system after any application of treatment or in the distribution system at a sampling point that is representative of each source after treatment. The supplier shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(c) If a system draws water from more than 1 source and the sources are combined before distribution, the supplier shall sample at an entry point to the distribution system during periods when water is representative of all sources being used.

(d) The total number of samples that shall be analyzed to meet the requirements of this rule may be reduced by the department when compositing of samples is utilized. ~~All of the following provisions apply to the~~ PROVISIONS FOR compositing of samples ARE AS FOLLOWS:

(i) Composite samples from a maximum of 5 sampling points are allowed.

(ii) Compositing of samples shall be done in the laboratory.

(iii) If the concentration in the composite sample is greater than or equal to 1/5 of the MCL of any inorganic chemical, then a follow-up sample shall be collected within 14 days from each sampling point included in the composite. These samples shall be analyzed for the contaminants that exceeded 1/5 of the MCL in the composite sample.

(iv) Compositing shall only be performed using samples from within a single water system.

(v) If duplicates of the original sample taken from each sampling point used in the composite are available, THEN the supplier may use these instead of resampling. The duplicates shall be analyzed and the results reported to the department within 14 days of collection.

(5) The MONITORING frequency of ~~monitoring that is~~ conducted to determine compliance with the MCLs in R 325.10604c for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium shall be as follows:

(a) Suppliers of water of groundwater systems shall take 1 sample at each sampling point during each compliance period. Suppliers of water of surface water systems or combined surface water and groundwater systems shall take 1 sample annually at each sampling point.

(b) A supplier of water may apply to the department for a waiver from the monitoring frequencies specified in subdivision (a) of this subrule. The department may grant a waiver for monitoring cyanide if the department determines ~~that~~ the system is not vulnerable due to the lack of any industrial source of cyanide. ~~All of the following provisions apply to a w~~Waiver PROVISIONS ARE AS FOLLOWS:

(i) A supplier shall take a minimum of 1 sample while the waiver is effective.

(ii) The term during which a waiver is effective shall not be more than 1 compliance cycle.

(iii) A waiver may be granted if a surface water supplier has monitored annually for not less than 3 years or a groundwater supplier has conducted not less than 3 rounds of monitoring. At least 1 sample shall have been taken since January 1, 1990. Both surface and groundwater suppliers shall demonstrate that all previous analytical results were less than the MCL. Supplies that use a new water source are not eligible for a waiver until 3 rounds of monitoring from the new source have been completed.

(iv) ~~All of the following items shall be considered by~~ The department SHALL CONSIDER ALL OF THE FOLLOWING FACTORS TO ~~in determining~~E the appropriate reduced monitoring frequency:

(A) Reported concentrations from all previous monitoring.

(B) The degree of variation in reported concentrations.

(C) Other factors that may affect contaminant concentrations, such as changes in any of the following:

(1) Groundwater pumping rates.

(2) The system's configuration.

(3) The system's operating procedures.

(4) Stream flows or characteristics.

(v) A waiver shall be in writing and shall set forth the basis for the determination. The determination may be initiated by the department or upon an application by the public water supplier specifying the basis for its request. The DEPARTMENT ~~determination may be revised by the department~~ THE DETERMINATION based on new data.

(c) SupplierS OF SYSTEMS ~~that~~ exceeding the MCLs as ~~determined~~ in R 325.10604c shall be monitored quarterly beginning in the next quarter after the violation occurred. The department may decrease the quarterly monitoring requirement to the frequencies specified in ~~the provisions of~~ subdivisions (a) and (b) of this subrule if it has determined that the ~~supply~~ SYSTEM is reliably and consistently below the MCL. A groundwater supplier shall take not less than 2 quarterly samples and a surface water supplier shall take not less than 4 quarterly samples before the department's determination.

(6) The MONITORING frequency of ~~monitoring that is~~ conducted to determine compliance with the MCL in R 325.10604c for asbestos shall be as follows:

(a) SUPPLIERS OF ~~EE~~Each community WATER SYSTEM and nontransient, noncommunity water ~~supply~~ SYSTEM shall monitor for asbestos during the first 3-year compliance period of each 9-year compliance cycle beginning in the compliance period starting January 1, 1993.

(b) If the supplier believes its water is not vulnerable to either asbestos contamination in its source water or asbestos contamination due to corrosion of asbestos-cement pipe, or both, it may apply to the department for a waiver of the monitoring requirement in subdivision (a) of this subrule. If the department grants the waiver, the

supplier is not required to monitor. A waiver remains in effect until the completion of the 3-year compliance period. The department may grant a waiver based on a consideration of both of the following factors:

- (i) Potential asbestos contamination of the water source.
- (ii) The use of asbestos-cement pipe for finished water distribution and the corrosive nature of the water.
- (c) A supplier of a system ~~that is~~ vulnerable to asbestos contamination due solely to the corrosion of asbestos-cement pipe shall take 1 sample at a tap ~~that is~~ served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.
- (d) A supplier of a system ~~that is~~ vulnerable to asbestos contamination due solely to source water shall monitor ~~in accordance with the provisions of~~ UNDER subrule (4) of this rule.
- (e) A supplier of a system ~~that is~~ vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take 1 sample at a tap ~~that is~~ served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.
- (f) A supplier of ~~water that~~ A SYSTEM exceedsING the MCLs as ~~determined~~ in R 325.10604c shall monitor quarterly beginning in the next quarter after a violation occurred.
- (g) The quarterly monitoring requirement may be decreased by the department to the frequency specified in subdivision (a) of this subrule if the department determines that the ~~supply~~ SYSTEM is reliably and consistently below the MCL. A groundwater supplier shall take a minimum of 2 quarterly samples and a surface water or combined surface water and groundwater supplier shall take a minimum of 4 quarterly samples before this determination.
- (h) If monitoring data collected after January 1, 1990, are generally consistent with the requirements of this subrule, then that data may be used to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.
- (7) The MONITORING frequency ~~of monitoring that is~~ conducted to determine compliance with the MCLs in R 325.10604c for nitrate shall be as follows:
  - (a) Community WATER SYSTEMS and nontransient, noncommunity water ~~supplies that are~~ SYSTEMS served by groundwater systems shall be monitored annually. ~~Supplies that are~~ SYSTEMS served by surface water shall be monitored quarterly.
  - (b) For community WATER SYSTEMS and nontransient, noncommunity water systems, the repeat monitoring frequency for groundwater systems shall be quarterly for at least 1 year following any 1 sample in which the concentration is 50% or more of the MCL. The sampling frequency for groundwater systems may be reduced by the department to annually after 4 consecutive quarterly samples are reliably and consistently less than the MCL.
  - (c) For community WATER SYSTEMS and nontransient, noncommunity water systems, the department may allow a surface water supplier to reduce the sampling frequency to annually if all analytical results from 4 consecutive quarters are less than 50% of the MCL. A surface water supplier shall return to ~~being monitored~~ quarterly MONITORING if any 1 sample is 50% or more of the MCL.
  - (d) SUPPLIERS OF transient, noncommunity water ~~supply~~ SYSTEMS shall ~~be monitored~~ annually.
  - (e) After the initial round of quarterly sampling is completed, ~~each~~ SUPPLIERS OF community WATER SYSTEMS and nontransient, noncommunity ~~supply~~ WATER SYSTEMS that ~~is being~~ ARE monitored annually shall take subsequent samples during the quarter or quarters which previously resulted in the highest analytical result.
- (8) The MONITORING frequency ~~of monitoring that is~~ conducted to determine compliance with the MCLs in R 325.10604c for nitrite shall be as follows:

(a) A supplier of a ~~type I or type II water supply~~ COMMUNITY WATER SYSTEM OR A NONCOMMUNITY WATER SYSTEM shall take 1 sample at each sampling point in the compliance period beginning January 1, 1993, and ending December 31, 1995.

(b) After the initial sample, ~~supplies~~ SUPPLIERS OF SYSTEMS where an analytical result for nitrite is less than 50% of the MCL shall ~~be~~ monitored at the frequency specified by the department.

(c) The repeat monitoring frequency for ~~any water supply~~ A SYSTEM shall be quarterly for at least 1 year following any 1 sample in which the concentration is 50% or more of the MCL. The department may allow a supplier to reduce the sampling frequency to annually after determining the ~~supply~~ SYSTEM is reliably and consistently less than the MCL.

(d) Suppliers ~~that are~~ monitoring annually shall take each subsequent sample during the quarter or quarters that previously resulted in the highest analytical result.

(9) Confirmation samples are required as follows:

(a) Where the results of sampling for any of the following indicate a level that is more than the MCL, the department may require that 1 additional sample be collected as soon as possible after the initial sample was taken, but not more than 2 weeks later, at the same sampling point:

(i) Asbestos.

(ii) Antimony.

(iii) Barium.

(iv) Beryllium.

(v) Cadmium.

(vi) Chromium.

(vii) Cyanide.

(viii) Fluoride.

(ix) Mercury.

(x) Nickel.

(xi) Selenium.

(xii) Thallium.

(b) Where nitrate or nitrite sampling results indicate a level that is more than the MCL, the supplier shall take a confirmation sample within 24 hours of the supplier's receipt of notification of the analytical results of the first sample. Suppliers that are unable to comply with the 24-hour sampling requirement shall immediately notify the ~~consumers who are~~ PERSONS served by the area served by the public water system ~~in accordance with the requirements of~~ UNDER part 4 of these rules and shall analyze a confirmation sample within 2 weeks of notification of the analytical results of the first sample.

(c) If a confirmation sample ~~that is~~ required by the department is taken for any contaminant, then the results of the initial and confirmation sample shall be averaged. The resulting average shall be used to determine the ~~supply's~~ SYSTEM'S compliance ~~in accordance with the provisions of~~ UNDER R 325.10604c(2), (3), (4), and (5). Results of obvious sampling errors may be deleted by the department.

(d) The department may require more frequent monitoring than specified in this rule or may require confirmation samples for positive or negative results.

(e) Suppliers may apply to the department to conduct more frequent monitoring than the minimum monitoring frequencies specified in this rule.

**R 325.10710a Monitoring requirements for lead and copper in tap water.**

Rule 710a. (1) ~~With respect to monitoring for lead and copper in tap water, all of the following provisions apply to~~ Sample site location PROVISIONS FOR LEAD AND COPPER MONITORING IN TAP WATER ARE AS FOLLOWS:

(a) By the applicable date for the commencement of monitoring ~~pursuant to the provisions of~~ UNDER subrule (4)(a) of this rule, each ~~water~~ supplier shall complete a materials evaluation of its distribution system to identify a pool of targeted sampling sites that is in compliance with the requirements of this rule and ~~which~~ THAT is large enough to ensure that the ~~water~~ supplier can collect the number of lead and copper tap samples ~~that are required pursuant to the provisions of~~ UNDER subrule (3) of this rule. All sites from which first draw samples are collected shall be selected from the pool of targeted sampling sites. Sampling sites ~~shall not~~ MAY include faucets that have point-of-use or point-of-entry treatment devices ~~that are~~ designed to remove inorganic contaminants ONLY IF THE DEVICES HAVE BEEN APPROVED BY THE DEPARTMENT FOR THE PURPOSE OF OPTIMIZING CORROSION CONTROL.

(b) A ~~water~~ supplier shall use the information on lead, copper, and galvanized steel that it is required to collect ~~pursuant to the provisions of~~ UNDER 40 C.F.R. '§141.42(d), ~~August 27, 1980~~ DECEMBER 5, 1994, (Special Monitoring for Corrosivity Characteristics) when conducting a materials evaluation. When an evaluation of the information ~~that is collected pursuant to the provisions of~~ UNDER 40 C.F.R. '§141.42(d), ~~August 27, 1980~~, is insufficient to locate the requisite number of lead and copper sampling sites that are in compliance with the targeting criteria in this subrule, the ~~water~~ supplier shall review the sources of information listed in paragraphs (i) to (iii) of this subdivision to identify a sufficient number of sampling sites. The provisions of 40 C.F.R. ~~part~~ §141.42(d), ~~August 27, 1980~~ DECEMBER 5, 1994, are adopted by reference ~~in these rules and are available from the United States Government Printing Office, Superintendent of Documents, Washington, DC 20402 9325 at a cost as of the time of adoption of these rules of \$1.50 or the applicable portions may be obtained from the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, 3423 North Martin Luther King Jr. Boulevard, P.O. Box 30630, Lansing, Michigan 48909 8130, at no charge.~~ THE ADOPTED MATERIAL IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS AT THE ADDRESS IN R 325.10116(2) FOR A COST OF \$47.00 AT THE TIME OF ADOPTION OF THESE RULES. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1). In addition, the supplier shall collect all of the following information, where possible, in the course of its normal operations, (for example, checking service line materials when reading water meters or performing maintenance activities):

(i) All plumbing codes, permits, and records in the files of the building department or departments that indicate the plumbing materials ~~which are~~ installed within publicly and privately owned structures connected to the distribution system.

(ii) All inspections and records of the distribution system that indicate the material composition of the service connections ~~which~~ connect~~ING~~ a structure to the distribution system.

(iii) All existing water quality information, which includes the results of all prior analyses of the ~~supply~~ SYSTEM or individual structures connected to the system, that indicates locations which may be particularly susceptible to high lead or copper concentrations.

(c) The sampling sites ~~that are~~ selected for a community water ~~supply's~~ SYSTEM'S sampling pool (tier 1 sampling sites) shall consist of single-family structures to which either or both of the following provisions apply:

(i) The structures contain copper pipes ~~which have been~~ soldered with lead and ~~which were~~ installed after 1982 or ~~which~~ THAT contain lead pipes.

(ii) The structures are served by a lead service line. When multiple-family residences comprise ~~at least~~ NOT LESS THAN 20% of the structures ~~that are~~ served by a water supply SYSTEM, the supplier may include these types of structures in its sampling pool.

(d) For ~~any~~ community water supply SYSTEM that has insufficient tier 1 sampling sites, the sampling pool shall be completed with tier 2 sampling sites, that consist of buildings, including multiple-family residences to which either or both of the following provisions apply:

(i) The structures contain copper pipes ~~which have been~~ soldered with lead and ~~which were~~ installed after 1982 or ~~which~~ THAT contain lead pipes.

(ii) The structures are served by a lead service line.

(e) For ~~any~~ community water supply SYSTEM that has insufficient tier 1 and tier 2 sampling sites, the sampling pool shall be completed with tier 3 sampling sites, that consist of single-family structures ~~that~~ containING copper pipes ~~which have been~~ soldered with lead and ~~which were~~ installed before 1983. THE SUPPLIER OF A COMMUNITY WATER SYSTEM WITH INSUFFICIENT TIER 1, TIER 2, AND TIER 3 SAMPLING SITES SHALL COMPLETE ITS SAMPLING POOL WITH REPRESENTATIVE SITES THROUGHOUT THE DISTRIBUTION SYSTEM. FOR PURPOSES OF THIS SUBRULE, A REPRESENTATIVE SITE IS A SITE IN WHICH THE PLUMBING MATERIALS USED AT THAT SITE WOULD BE COMMONLY FOUND AT OTHER SITES SERVED BY THE SYSTEM.

(f) The sampling sites ~~that are~~ selected for a nontransient, noncommunity water supply SYSTEM (tier 1 sampling sites) shall consist of buildings to which either or both of the following provisions apply:

(i) The structures contain copper pipes ~~which have been~~ soldered with lead and ~~which were~~ installed after 1982 or ~~which~~ THAT contain lead pipes.

(ii) The structures are served by a lead service line.

(g) A THE SUPPLIER OF A nontransient, noncommunity water ~~supplier~~ SYSTEM that has insufficient tier 1 sites shall complete its sampling pool with sampling sites ~~which have~~ CONTAINING copper pipes ~~that were~~ soldered with lead and ~~which were~~ installed before 1983. IF ADDITIONAL SITES ARE NEEDED TO COMPLETE THE SAMPLING POOL, THE SUPPLIER OF A NONTRANSIENT NONCOMMUNITY WATER SYSTEM SHALL USE REPRESENTATIVE SITES THROUGHOUT THE DISTRIBUTION SYSTEM. FOR PURPOSES OF THIS SUBRULE, A REPRESENTATIVE SITE IS A SITE IN WHICH THE PLUMBING MATERIALS USED AT THAT SITE WOULD BE COMMONLY FOUND AT OTHER SITES SERVED BY THE SYSTEM.

~~(h) If a water supplier's sampling pool does not consist exclusively of tier 1 sites, then the supplier shall demonstrate, in documentation submitted to the department pursuant to the provisions of R 325.10710d(a)(ii), why a review of the information listed in subdivision (b) of this subrule was inadequate to locate a sufficient number of tier 1 sites. Any community water supplier that includes tier 3 sampling sites in its sampling pool shall demonstrate in the documentation why the supplier was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.~~

~~(i) (h) If a water supplier's distribution system contains lead service lines, then the supplier shall draw 50% of the samples that are collected during each monitoring period from sites that contain lead pipes or copper pipes with lead solder and 50% of the samples from sites that are served by a lead service line. A water supplier that cannot identify a sufficient number of sampling sites that are served by either A lead service lines or copper pipes with lead solder or lead pipes shall submit documentation to the department, pursuant to the provisions of R 325.10710d(a)(iv), that explains why the supplier was unable to locate a sufficient number of such sites. The water supplier shall collect first-draw tap samples from all of the limited sites identified and shall complete its sampling pool in compliance with the provisions of subdivisions (c) to (g) of this subrule.~~

(2) ~~With respect to monitoring for lead and copper in tap water, all of the following provisions apply to~~ Sample collection methods PROVISIONS FOR LEAD AND COPPER MONITORING IN TAP WATER ARE AS FOLLOWS:

(a) All tap samples for lead and copper ~~that are~~ collected in compliance with this subrule, with the exception of lead service line samples ~~that are~~ collected pursuant to the provisions of UNDER R 325.10604f(5)(c), AND SAMPLES COLLECTED UNDER SUBDIVISION (e) OF THIS SUBRULE, shall be first-draw samples.

(b) Each first-draw tap sample for lead and copper shall be 1 liter in volume and have stood motionless in the plumbing system of each sampling site for not less than 6 hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building SHALL BE 1 LITER IN VOLUME AND shall be collected at an interior tap from which water is typically drawn for consumption. NON-FIRST-DRAW SAMPLES COLLECTED INSTEAD OF FIRST-DRAW SAMPLES PURSUANT TO SUBDIVISION (e) OF THIS SUBRULE SHALL BE 1 LITER IN VOLUME AND SHALL BE COLLECTED AT AN INTERIOR TAP FROM WHICH WATER IS TYPICALLY DRAWN FOR CONSUMPTION. First-draw samples may be collected by the supplier or the supplier may allow residents to collect first-draw samples after instructing the residents about the sampling procedures specified in this subdivision. To avoid problems of residents handling nitric acid, acidification of first-draw samples may be done up to 14 days after the sample is collected. ~~If the sample is not acidified immediately after collection, the sample shall stand in the original container for not less than 28 hours after acidification.~~ AFTER ACIDIFICATION TO RESOLUBILIZE THE METALS, THE SAMPLE SHALL STAND IN THE ORIGINAL CONTAINER FOR THE TIME SPECIFIED IN THE APPROVED EPA METHOD BEFORE THE SAMPLE CAN BE ANALYZED. If a supplier allows residents to perform sampling, the supplier shall not challenge the accuracy of the sampling results based on alleged errors in sample collection.

(c) Each service line sample shall be 1 liter in volume and have stood motionless in the lead service line for not less than 6 hours. Lead service line samples shall be collected in 1 of the following 3 ways:

(i) At the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line.

(ii) Tapping directly into the lead service line.

(iii) If the sampling site is a building ~~that is~~ constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

(d) A ~~water~~ supplier shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the ~~water~~ supplier cannot gain entry to a sampling site to collect a follow-up tap sample, the supplier may collect the follow-up tap sample from another sampling site in its sampling pool.

(e) THE SUPPLIER OF A NONTRANSIENT NONCOMMUNITY WATER SYSTEM, OR A COMMUNITY WATER SYSTEM THAT MEETS THE CRITERIA OF R 325.10410(8)(a) AND (b), THAT DOES NOT HAVE ENOUGH TAPS THAT CAN SUPPLY FIRST-DRAW SAMPLES, AS DEFINED IN R 325.10105(d), MAY APPLY TO THE DEPARTMENT, IN WRITING, TO SUBSTITUTE NON-FIRST-DRAW SAMPLES. THE SUPPLIER SHALL COLLECT AS MANY FIRST-DRAW SAMPLES FROM APPROPRIATE TAPS AS POSSIBLE AND IDENTIFY SAMPLING TIMES AND LOCATIONS THAT WOULD LIKELY RESULT IN THE LONGEST STANDING TIME FOR THE REMAINING SITES. THE DEPARTMENT HAS THE DISCRETION TO WAIVE THE REQUIREMENT FOR PRIOR DEPARTMENT APPROVAL OF NON-FIRST-DRAW SAMPLE SITES



SELECTED BY THE SUPPLIER, EITHER THROUGH DEPARTMENT REGULATION OR WRITTEN NOTIFICATION TO THE SUPPLIER.

(3) ~~Water~~ Suppliers shall collect at least 1 sample during each monitoring period specified in subrule (4) of this rule from the number of sites listed in the standard monitoring column ~~set forth in~~ UNDER this subrule. If the system has less than the required number of sampling sites, the supplier shall collect 1 sample from each available site as defined in subrule (1)(c) to (g) of this rule. A supplier that conducts reduced monitoring ~~pursuant to the provisions of~~ UNDER subrule (4)(d) of this rule ~~may~~ SHALL collect AT LEAST 1 sample from the number of sites specified in the reduced monitoring column ~~set forth in~~ UNDER this subrule during each monitoring period specified in subrule (4)(d) of this rule. THE REDUCED MONITORING SITES SHALL BE REPRESENTATIVE OF THE SITES REQUIRED FOR STANDARD MONITORING. THE DEPARTMENT MAY SPECIFY SAMPLING LOCATIONS WHEN A SYSTEM IS CONDUCTING REDUCED MONITORING.

System Size (Number of People Served)	Number of Sites (Standard Monitoring)	Number of Sites (Reduced Monitoring)
More than 100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
<del>Less</del> FEWER than 101	5	5

(4) ~~With respect to monitoring for lead and copper in tap water, all of the following provisions apply to~~ PROVISIONS FOR the timing of monitoring FOR LEAD AND COPPER IN TAP WATER ARE AS FOLLOWS:

(a) The first 6-month monitoring period for small, medium-size, and large WATER systems shall begin on the following dates:

System Size (Number of People Served)	First 6-Month Monitoring Period Begins On
More than 50,000	January 1, 1992
3,301 to 50,000	July 1, 1992
<del>Less</del> FEWER than 3,301	July 1, 1993

All large WATER systems shall be monitored during 2 consecutive 6-month periods. All small and medium-size WATER systems shall be monitored during each 6-month monitoring period until either of the following occurs:

(i) The ~~supply~~ SYSTEM exceeds the lead or copper action level and the supplier is therefore required to implement the corrosion control treatment ~~requirements pursuant to the provisions of~~ UNDER R 325.10604f(2), in which case the supplier shall continue monitoring ~~in accordance with the provisions of~~ UNDER subdivision (b) of this subrule.

(ii) The ~~supply~~ SYSTEM is in compliance with the lead and copper action levels during 2 consecutive 6 month monitoring periods, in which case the supplier may reduce monitoring ~~in accordance with the provisions of~~ UNDER subdivision (d) of this subrule.

(b) ~~All of the following provisions apply to m~~Monitoring PROVISIONS after the installation of corrosion control and source water treatment ARE AS FOLLOWS:

(i) The supplier of ~~any~~ large WATER system that installs optimal corrosion control treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(2)(d)(iii) shall monitor during 2 consecutive 6-month monitoring periods by the date specified in R 325.10604f(2)(d)(iv).

(ii) The supplier of ~~any~~ small or medium-size WATER system that installs optimal corrosion control treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(2)(e)(v) shall monitor during 2 consecutive 6-month monitoring periods by the date specified in R 325.10604f(2)(e)(vi).

(iii) ~~Any~~ supplier that installs source water treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(a)(ii) shall monitor during 2 consecutive 6-month monitoring periods by the date specified in R 325.10604f(4)(a)(iii).

(c) After the department specifies the values for water quality control parameters, the supplier shall monitor during each subsequent 6-month monitoring period, with the first monitoring period to begin on the date the department specifies the optimal values.

(d) ~~All of the following provisions apply to r~~Reduced monitoring PROVISIONS ARE AS FOLLOWS:

(i) ~~An owner~~ THE SUPPLIER of a small or medium-size water system that is in compliance with the lead and copper action levels during each of 2 consecutive 6-month monitoring periods may reduce the number of samples ~~in accordance with the provisions of~~ UNDER subrule (3) of this rule and may reduce the frequency of sampling to once each year.

(ii) ~~Any~~ supplier OF A SMALL, MEDIUM-SIZE, OR LARGE WATER SYSTEM that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department during each of 2 consecutive 6-month monitoring periods may ~~request that the department allow the supplier to~~ reduce the frequency of monitoring FOR LEAD AND COPPER AT THE TAP to once each year and ~~to~~ reduce the number of lead and copper samples ~~in accordance with the provisions of~~ UNDER subrule (3) of this rule IF IT RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

(iii) The ~~owner~~ SUPPLIER of a small or medium-size water system that is in compliance with the lead and copper action levels during 3 consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every 3 years. ~~The owner of any water system~~ A SUPPLIER OF A SMALL, MEDIUM-SIZE, OR LARGE WATER SYSTEM that maintains the range of values for the water quality control parameters ~~that~~ reflectING optimal corrosion control treatment specified by the department during 3 consecutive years of monitoring may ~~request that the department allow the owner to~~ reduce the frequency of monitoring FOR LEAD AND COPPER AT THE TAP from annually to once every 3 years IF IT RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

(iv) A supplier who reduces the number and frequency of sampling shall collect these samples from REPRESENTATIVE sites ~~that are~~ included in the pool of targeted sampling sites ~~that are~~ identified in subrule (1) of this rule. A supplier who samples annually or less frequently shall conduct the lead and copper tap sampling during the month of June, July, August, or September UNLESS THE DEPARTMENT HAS APPROVED A DIFFERENT SAMPLING PERIOD UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH, AS FOLLOWS:

(A) THE DEPARTMENT, AT ITS DISCRETION, MAY APPROVE A DIFFERENT PERIOD FOR CONDUCTING THE LEAD AND COPPER TAP SAMPLING FOR SUPPLIERS COLLECTING A REDUCED NUMBER OF SAMPLES. THE PERIOD SHALL BE NO LONGER THAN 4 CONSECUTIVE MONTHS AND SHALL REPRESENT A TIME OF NORMAL OPERATION WHERE THE HIGHEST LEVELS OF LEAD ARE MOST LIKELY TO OCCUR. FOR A NONTRANSIENT NONCOMMUNITY WATER SYSTEM THAT DOES NOT OPERATE DURING

THE MONTHS OF JUNE THROUGH SEPTEMBER, AND FOR WHICH THE PERIOD OF NORMAL OPERATION WHERE THE HIGHEST LEVELS OF LEAD ARE MOST LIKELY TO OCCUR IS NOT KNOWN, THE DEPARTMENT SHALL DESIGNATE A PERIOD THAT REPRESENTS A TIME OF NORMAL OPERATION FOR THE SYSTEM.

(B) SUPPLIERS MONITORING ANNUALLY THAT HAVE BEEN COLLECTING SAMPLES DURING THE MONTHS OF JUNE THROUGH SEPTEMBER AND THAT RECEIVED DEPARTMENT APPROVAL TO ALTER THEIR SAMPLE COLLECTION PERIOD UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH, SHALL COLLECT THEIR NEXT ROUND OF SAMPLES DURING A TIME PERIOD THAT ENDS NO LATER THAN 21 MONTHS AFTER THE PREVIOUS ROUND OF SAMPLING. SUPPLIERS MONITORING TRIENNIALLY THAT HAVE BEEN COLLECTING SAMPLES DURING THE MONTHS OF JUNE THROUGH SEPTEMBER, AND RECEIVE DEPARTMENT APPROVAL TO ALTER THE SAMPLING COLLECTION PERIOD UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH, SHALL COLLECT THEIR NEXT ROUND OF SAMPLES DURING A TIME PERIOD THAT ENDS NO LATER THAN 45 MONTHS AFTER THE PREVIOUS ROUND OF SAMPLING. SUBSEQUENT ROUNDS OF SAMPLING SHALL BE COLLECTED ANNUALLY OR TRIENNIALLY, AS REQUIRED BY THIS SUBRULE. SUPPLIERS OF SMALL WATER SYSTEMS WITH WAIVERS, GRANTED UNDER SUBRULE (7) OF THIS RULE, THAT HAVE BEEN COLLECTING SAMPLES DURING THE MONTHS OF JUNE THROUGH SEPTEMBER AND CHOOSE TO ALTER THEIR SAMPLE COLLECTION PERIOD UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL COLLECT THEIR NEXT ROUND OF SAMPLES BEFORE THE END OF THE 9-YEAR CYCLE.

(v) A SUPPLIER THAT DEMONSTRATES FOR 2 CONSECUTIVE 6-MONTH MONITORING PERIODS THAT THE TAP WATER LEAD LEVEL COMPUTED UNDER R 325.10604f(1)(c) IS LESS THAN OR EQUAL TO 0.005 MG/L AND THE TAP WATER COPPER LEVEL COMPUTED UNDER R 325.10604f(1)(c) IS LESS THAN OR EQUAL TO 0.65 MG/L MAY REDUCE THE NUMBER OF SAMPLES UNDER SUBRULE (3) OF THIS RULE AND REDUCE THE FREQUENCY OF SAMPLING TO ONCE EVERY 3 CALENDAR YEARS.

(v) (vi) THE FOLLOWING PROVISIONS APPLY TO SUPPLIES SUBJECT TO REDUCED MONITORING:

(A) The ~~owner~~ SUPPLIER of a small or medium-size water system ~~which is subject to reduced monitoring and which~~ THAT exceeds the lead or copper action level shall resume sampling ~~in accordance with the provisions of~~ UNDER subdivision (c) of this subrule and shall collect the number of samples specified for the standard monitoring ~~pursuant to the provisions of~~ UNDER subrule (3) of this rule. The ~~owner~~ SUPPLIER shall also conduct water quality parameter monitoring ~~in accordance with the provisions of~~ UNDER R 325.10710b(4), (5), or (6), as appropriate, during the monitoring period in which the system exceeded the action level. ~~The owner of a water system which is subject to reduced monitoring frequency and which fails to operate within the range of values for the water quality control parameters specified by the department shall resume tap water sampling in accordance with the provisions of subdivision (c) of this subrule and shall collect the number of samples specified for standard monitoring pursuant to the provisions of subrule (3) of this rule.~~ THE SUPPLIER MAY RESUME ANNUAL MONITORING FOR LEAD AND COPPER AT THE TAP AT THE REDUCED NUMBER OF SITES SPECIFIED IN SUBRULE (3) OF THIS RULE AFTER IT HAS COMPLETED 2 SUBSEQUENT CONSECUTIVE 6-MONTH ROUNDS OF MONITORING THAT MEET THE CRITERIA OF PARAGRAPH (i) OF THIS SUBDIVISION OR MAY RESUME TRIENNIAL MONITORING FOR LEAD AND COPPER AT THE REDUCED NUMBER OF SITES AFTER IT

DEMONSTRATES THROUGH SUBSEQUENT ROUNDS OF MONITORING THAT IT MEETS THE CRITERIA OF EITHER PARAGRAPH (iii) OR (v) OF THIS SUBDIVISION.

(B) IF A SYSTEM SUBJECT TO THE REDUCED MONITORING FREQUENCY FAILS TO OPERATE AT OR ABOVE THE MINIMUM VALUE OR WITHIN THE RANGE OF VALUES FOR THE WATER QUALITY PARAMETERS SPECIFIED BY THE DEPARTMENT FOR MORE THAN 9 DAYS IN A 6-MONTH PERIOD SPECIFIED IN R 325.10710b(6), THE SUPPLIER SHALL CONDUCT TAP WATER SAMPLING FOR LEAD AND COPPER AT THE FREQUENCY SPECIFIED IN SUBDIVISION (c) OF THIS SUBRULE, COLLECT THE NUMBER OF SAMPLES SPECIFIED FOR STANDARD MONITORING UNDER SUBRULE (3) OF THIS RULE, AND SHALL RESUME MONITORING FOR WATER QUALITY PARAMETERS WITHIN THE DISTRIBUTION SYSTEM UNDER R325.10710b(6). THE SUPPLIER MAY RESUME REDUCED MONITORING FOR LEAD AND COPPER AT THE TAP AND FOR WATER QUALITY PARAMETERS WITHIN THE DISTRIBUTION SYSTEM UNDER THE FOLLOWING CONDITIONS:

(1) THE SUPPLIER MAY RESUME ANNUAL MONITORING FOR LEAD AND COPPER AT THE TAP AT THE REDUCED NUMBER OF SITES SPECIFIED IN SUBRULE (3) OF THIS RULE AFTER IT HAS COMPLETED 2 SUBSEQUENT 6-MONTH ROUNDS OF MONITORING THAT MEET THE CRITERIA OF PARAGRAPH (ii) OF THIS SUBDIVISION AND THE SUPPLIER HAS RECEIVED WRITTEN APPROVAL FROM THE DEPARTMENT TO RESUME REDUCED MONITORING ON AN ANNUAL FREQUENCY.

(2) THE SUPPLIER MAY RESUME TRIENNIAL MONITORING FOR LEAD AND COPPER AT THE TAP AT THE REDUCED NUMBER OF SITES AFTER IT DEMONSTRATES THROUGH SUBSEQUENT ROUNDS OF MONITORING THAT IT MEETS THE CRITERIA OF EITHER PARAGRAPH (iii) OR (v) OF THIS SUBDIVISION AND THE SUPPLIER HAS RECEIVED WRITTEN APPROVAL FROM THE DEPARTMENT TO RESUME TRIENNIAL MONITORING.

(3) THE SUPPLIER MAY REDUCE THE NUMBER OF WATER QUALITY PARAMETER TAP WATER SAMPLES REQUIRED UNDER R 325.10710b(7)(a) AND THE FREQUENCY WITH WHICH IT COLLECTS THE SAMPLES UNDER R325.10710b(7)(b). THE SUPPLIER MAY NOT RESUME TRIENNIAL MONITORING FOR WATER QUALITY PARAMETERS AT THE TAP UNTIL IT DEMONSTRATES, UNDER THE REQUIREMENTS OF R 325.10710b(7)(b), THAT IT HAS REQUALIFIED FOR TRIENNIAL MONITORING.

(vii) FOR A SYSTEM SUBJECT TO A REDUCED MONITORING FREQUENCY UNDER SUBDIVISION (d) OF THIS SUBRULE, IF THE SUPPLIER EITHER ADDS A NEW SOURCE OF WATER OR CHANGES THE WATER TREATMENT, IT SHALL INFORM THE DEPARTMENT IN WRITING UNDER R 325.10710d(1)(a)(iii). THE DEPARTMENT MAY REQUIRE THE SUPPLIER TO RESUME SAMPLING UNDER SUBDIVISION (c) OF THIS SUBRULE AND COLLECT THE NUMBER OF SAMPLES SPECIFIED FOR STANDARD MONITORING UNDER SUBRULE (3) OF THIS RULE OR TAKE OTHER APPROPRIATE STEPS SUCH AS INCREASED WATER QUALITY PARAMETER MONITORING OR REEVALUATION OF ITS CORROSION CONTROL TREATMENT GIVEN THE POTENTIALLY DIFFERENT WATER QUALITY CONSIDERATIONS.

(5) The results of ~~any~~ monitoring ~~that is~~ conducted in addition to the minimum requirements of this rule shall be considered in calculating the ninetieth percentile lead or copper level.

(6) A SAMPLE INVALIDATED UNDER THIS SUBRULE DOES NOT COUNT TOWARD DETERMINING LEAD OR COPPER NINETIETH PERCENTILE LEVELS UNDER R325.604f(1)(c) OR TOWARD MEETING THE MINIMUM MONITORING REQUIREMENTS OF SUBRULE (3) OF THIS RULE. ALL OF THE FOLLOWING PROVISIONS APPLY TO INVALIDATING SAMPLES:

(a) THE DEPARTMENT MAY INVALIDATE A LEAD OR COPPER TAP WATER SAMPLE IF AT LEAST 1 OF THE FOLLOWING CONDITIONS IS MET:

(i) THE LABORATORY ESTABLISHES THAT IMPROPER SAMPLE ANALYSIS CAUSED ERRONEOUS RESULTS.

(ii) THE DEPARTMENT DETERMINES THAT THE SAMPLE WAS TAKEN FROM A SITE THAT DID NOT MEET THE SITE SELECTION CRITERIA OF THIS RULE.

(iii) THE SAMPLE CONTAINER WAS DAMAGED IN TRANSIT.

(iv) THERE IS SUBSTANTIAL REASON TO BELIEVE THAT THE SAMPLE WAS SUBJECT TO TAMPERING.

(b) THE SUPPLIER SHALL REPORT THE RESULTS OF ALL SAMPLES TO THE DEPARTMENT AND ALL SUPPORTING DOCUMENTATION FOR SAMPLES THE SUPPLIER BELIEVES SHOULD BE INVALIDATED.

(c) TO INVALIDATE A SAMPLE UNDER SUBDIVISION (a) OF THIS SUBRULE, THE DECISION AND THE RATIONALE FOR THE DECISION SHALL BE DOCUMENTED IN WRITING. THE DEPARTMENT MAY NOT INVALIDATE A SAMPLE SOLELY ON THE GROUNDS THAT A FOLLOW-UP SAMPLE RESULT IS HIGHER OR LOWER THAN THAT OF THE ORIGINAL SAMPLE.

(d) THE SUPPLIER SHALL COLLECT REPLACEMENT SAMPLES FOR THE SAMPLES INVALIDATED UNDER THIS RULE IF, AFTER THE INVALIDATION OF 1 OR MORE SAMPLES, THE SUPPLIER HAS TOO FEW SAMPLES TO MEET THE MINIMUM REQUIREMENTS OF SUBRULE (3) OF THIS RULE. THE REPLACEMENT SAMPLES SHALL BE TAKEN AS SOON AS POSSIBLE, BUT NOT LATER THAN 20 DAYS AFTER THE DATE THE DEPARTMENT INVALIDATES THE SAMPLE OR BY THE END OF THE APPLICABLE MONITORING PERIOD, WHICHEVER OCCURS LATER. REPLACEMENT SAMPLES TAKEN AFTER THE END OF THE APPLICABLE MONITORING PERIOD SHALL NOT ALSO BE USED TO MEET THE MONITORING REQUIREMENTS OF A SUBSEQUENT MONITORING PERIOD. THE REPLACEMENT SAMPLES SHALL BE TAKEN AT THE SAME LOCATIONS AS THE INVALIDATED SAMPLES OR, IF THAT IS NOT POSSIBLE, AT LOCATIONS OTHER THAN THOSE ALREADY USED FOR SAMPLING DURING THE MONITORING PERIOD.

(7) THE SUPPLIER OF A SMALL WATER SYSTEM THAT MEETS THE CRITERIA OF THIS SUBRULE MAY APPLY TO THE DEPARTMENT TO REDUCE THE FREQUENCY OF MONITORING FOR LEAD AND COPPER UNDER THIS RULE TO ONCE EVERY 9 YEARS, THAT IS, A “FULL WAIVER”, IF IT MEETS ALL OF THE MATERIALS CRITERIA SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE AND ALL OF THE MONITORING CRITERIA SPECIFIED IN SUBDIVISION (b) OF THIS SUBRULE. IF A SMALL WATER SYSTEM MEETS THE CRITERIA IN SUBDIVISIONS (a) AND (b) OF THIS SUBRULE ONLY FOR LEAD, OR ONLY FOR COPPER, THE SUPPLIER MAY APPLY TO THE DEPARTMENT FOR A WAIVER TO REDUCE THE FREQUENCY OF TAP WATER MONITORING TO ONCE EVERY 9 YEARS FOR THAT CONTAMINANT ONLY, THAT IS, A “PARTIAL WAIVER”.

(a) THE SUPPLIER SHALL DEMONSTRATE THAT ITS DISTRIBUTION SYSTEM AND SERVICE LINES AND ALL DRINKING WATER SYSTEM PLUMBING, INCLUDING PLUMBING CONVEYING DRINKING WATER WITHIN ALL RESIDENCES AND BUILDINGS CONNECTED TO THE SYSTEM, ARE FREE OF LEAD-CONTAINING MATERIALS OR COPPER-CONTAINING MATERIALS, OR BOTH, AS THOSE TERMS ARE DEFINED IN THIS SUBDIVISION, AS FOLLOWS:

(i) TO QUALIFY FOR A FULL WAIVER, OR A WAIVER OF THE TAP WATER MONITORING REQUIREMENTS FOR LEAD, THAT IS, A “LEAD WAIVER”, THE SUPPLIER SHALL PROVIDE CERTIFICATION AND SUPPORTING DOCUMENTATION TO THE DEPARTMENT THAT THE SYSTEM IS FREE OF ALL LEAD-CONTAINING MATERIALS AND THAT THE SYSTEM COMPLIES WITH BOTH OF THE FOLLOWING PROVISIONS:

(A) THE SYSTEM DOES NOT CONTAIN PLASTIC PIPES THAT CONTAIN LEAD PLASTICIZERS OR PLASTIC SERVICE LINES THAT CONTAIN LEAD PLASTICIZERS.

(B) THE SYSTEM IS FREE OF LEAD SERVICE LINES, LEAD PIPES, LEAD SOLDERED PIPE JOINTS, AND LEADED BRASS OR BRONZE ALLOY FITTINGS AND FIXTURES, UNLESS THE FITTINGS AND FIXTURES MEET THE SPECIFICATIONS OF STANDARDS ESTABLISHED PURSUANT TO “PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX: PLUMBING FITTINGS AND FIXTURES” 42 U.S.C. 300G-6(e), WHICH ARE ADOPTED BY REFERENCE. THE ADOPTED MATERIAL IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS AT THE ADDRESS IN R 325.10116(2) FOR A COST OF \$56.00 AT THE TIME OF ADOPTION OF THESE RULES. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1).

(ii) TO QUALIFY FOR A FULL WAIVER, OR A WAIVER OF THE TAP WATER MONITORING REQUIREMENTS FOR COPPER, THAT IS, A “COPPER WAIVER”, THE SUPPLIER SHALL PROVIDE CERTIFICATION AND SUPPORTING DOCUMENTATION TO THE DEPARTMENT THAT THE SYSTEM DOES NOT CONTAIN COPPER PIPES OR COPPER SERVICE LINES.

(b) THE SUPPLIER SHALL HAVE COMPLETED AT LEAST 16-MONTH ROUND OF STANDARD TAP WATER MONITORING FOR LEAD AND COPPER AT SITES APPROVED BY THE DEPARTMENT AND FROM THE NUMBER OF SITES REQUIRED BY SUBRULE (3) OF THIS RULE AND DEMONSTRATE THAT THE NINETIETH PERCENTILE LEVELS FOR ALL ROUNDS OF MONITORING CONDUCTED SINCE THE SYSTEM BECAME FREE OF ALL LEAD-CONTAINING OR COPPER-CONTAINING MATERIALS, OR BOTH, AS APPROPRIATE, MEET THE FOLLOWING CRITERIA:

(i) TO QUALIFY FOR A FULL WAIVER OR A LEAD WAIVER, THE SUPPLIER SHALL DEMONSTRATE THAT THE NINETIETH PERCENTILE LEAD LEVEL DOES NOT EXCEED 0.005 MG/L.

(ii) TO QUALIFY FOR A FULL WAIVER OR A COPPER WAIVER, THE SUPPLIER SHALL DEMONSTRATE THAT THE NINETIETH PERCENTILE COPPER LEVEL DOES NOT EXCEED 0.65 MG/L.

(c) THE DEPARTMENT SHALL NOTIFY THE SYSTEM OF ITS WAIVER DETERMINATION, IN WRITING. AS A CONDITION OF THE WAIVER, THE DEPARTMENT MAY REQUIRE THE SUPPLIER TO PERFORM SPECIFIC ACTIVITIES, FOR EXAMPLE, LIMITED MONITORING, PERIODIC OUTREACH TO CUSTOMERS TO REMIND THEM TO AVOID INSTALLATION OF MATERIALS THAT MIGHT VOID THE WAIVER, TO AVOID THE RISK OF LEAD OR COPPER CONCENTRATION OF CONCERN IN TAP WATER. THE SUPPLIER SHALL CONTINUE MONITORING FOR LEAD AND COPPER AT THE TAP AS REQUIRED BY SUBDIVISIONS (a) THROUGH (d) OF THIS SUBRULE, AS APPROPRIATE, UNTIL IT RECEIVES WRITTEN NOTIFICATION FROM THE DEPARTMENT THAT THE WAIVER HAS BEEN APPROVED.

(d) MONITORING FREQUENCIES FOR SUPPLIES WITH WAIVERS ARE AS FOLLOWS:

(i) FOR A SYSTEM WITH A FULL WAIVER, THE SUPPLIER SHALL CONDUCT TAP WATER MONITORING FOR LEAD AND COPPER UNDER SUBRULE (4)(d)(iv) OF THIS RULE AT THE REDUCED NUMBER OF SAMPLING SITES IDENTIFIED IN SUBRULE (3) OF THIS RULE AT LEAST ONCE EVERY 9 YEARS AND PROVIDE THE MATERIALS CERTIFICATION SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE FOR BOTH LEAD AND COPPER TO THE DEPARTMENT ALONG WITH THE MONITORING RESULTS.

(ii) FOR A SYSTEM WITH A PARTIAL WAIVER, THE SUPPLIER SHALL CONDUCT TAP WATER MONITORING FOR THE WAIVED CONTAMINANT UNDER SUBRULE (4)(d)(iv) OF THIS RULE AT THE REDUCED NUMBER OF SAMPLING SITES SPECIFIED IN SUBRULE (3) OF THIS RULE AT LEAST ONCE EVERY 9 YEARS AND PROVIDE THE MATERIALS CERTIFICATION SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE PERTAINING TO THE WAIVED CONTAMINANT ALONG WITH THE MONITORING RESULTS. THE SUPPLIER ALSO SHALL CONTINUE TO MONITOR FOR THE NON-WAIVED CONTAMINANT UNDER REQUIREMENTS OF SUBRULE (4)(a) THROUGH (d) OF THIS RULE, AS APPROPRIATE.

(iii) FOR A SYSTEM WITH A FULL OR PARTIAL WAIVER, IF THE SUPPLIER ADDS A NEW SOURCE OF WATER OR CHANGES THE WATER TREATMENT, IT SHALL NOTIFY THE DEPARTMENT, IN WRITING, UNDER R 325.10710d(1)(a)(iii). THE DEPARTMENT HAS THE AUTHORITY TO REQUIRE THE SUPPLIER TO ADD OR MODIFY WAIVER CONDITIONS, FOR EXAMPLE, REQUIRE RECERTIFICATION THAT THE SYSTEM IS FREE OF LEAD-CONTAINING OR COPPER-CONTAINING MATERIALS, OR BOTH, REQUIRE ADDITIONAL ROUND OR ROUNDS OF MONITORING, IF IT CONSIDERS THE MODIFICATIONS ARE NECESSARY TO ADDRESS TREATMENT OR SOURCE WATER CHANGES AT THE SYSTEM.

(iv) FOR A SYSTEM WITH A FULL OR PARTIAL WAIVER, IF THE SUPPLIER BECOMES AWARE THAT THE SYSTEM IS NO LONGER FREE OF LEAD-CONTAINING OR COPPER-CONTAINING MATERIALS, AS APPROPRIATE, FOR EXAMPLE, AS A RESULT OF NEW CONSTRUCTION OR REPAIRS, THE SUPPLIER SHALL NOTIFY THE DEPARTMENT, IN WRITING, NOT LATER THAN 60 DAYS AFTER BECOMING AWARE OF THE CHANGE.

(e) IF THE SUPPLIER CONTINUES TO SATISFY THE REQUIREMENTS OF SUBDIVISION (d) OF THIS SUBRULE, THE WAIVER WILL BE RENEWED AUTOMATICALLY, UNLESS A CONDITION LISTED IN PARAGRAPHS (i) THROUGH (iii) OF THIS SUBDIVISION OCCURS. FOR A SYSTEM WHOSE WAIVER HAS BEEN REVOKED, THE SUPPLIER MAY REAPPLY FOR A WAIVER IF IT AGAIN MEETS THE APPROPRIATE MATERIALS AND MONITORING CRITERIA OF SUBDIVISIONS (a) AND (b) OF THIS SUBRULE. THE WAIVER IS REVOKED IF ANY OF THE FOLLOWING CONDITIONS EXIST:

(i) A SYSTEM WITH A FULL WAIVER OR A LEAD WAIVER NO LONGER SATISFIES THE MATERIALS CRITERIA OF SUBDIVISION (a)(i) OF THIS SUBRULE OR HAS A NINETIETH PERCENTILE LEAD LEVEL OF MORE THAN 0.005 MG/L.

(ii) A SYSTEM WITH A FULL WAIVER OR A COPPER WAIVER NO LONGER SATISFIES THE MATERIALS CRITERIA OF SUBDIVISION (a)(ii) OF THIS SUBRULE OR HAS A NINETIETH PERCENTILE COPPER LEVEL OF MORE THAN 0.65 MG/L.

(iii) THE DEPARTMENT NOTIFIES THE SUPPLIER, IN WRITING, THAT THE WAIVER HAS BEEN REVOKED.

(f) A SYSTEM WHOSE FULL OR PARTIAL WAIVER HAS BEEN REVOKED BY THE DEPARTMENT IS SUBJECT TO THE CORROSION CONTROL TREATMENT AND LEAD AND COPPER TAP WATER MONITORING REQUIREMENTS, AS FOLLOWS:

- (i) IF THE SYSTEM EXCEEDS THE LEAD OR COPPER ACTION LEVEL, OR BOTH, THE SUPPLIER SHALL IMPLEMENT CORROSION CONTROL TREATMENT UNDER THE DEADLINES SPECIFIED IN R 325.10604f(2)(e) AND OTHER APPLICABLE REQUIREMENTS OF THIS PART.
- (ii) IF THE SYSTEM MEETS BOTH THE LEAD AND THE COPPER ACTION LEVEL, THE SUPPLIER SHALL MONITOR FOR LEAD AND COPPER AT THE TAP NOT LESS FREQUENTLY THAN ONCE EVERY 3 YEARS USING THE REDUCED NUMBER OF SAMPLE SITES SPECIFIED IN SUBRULE (3) OF THIS RULE.
- (g) SMALL WATER SYSTEM WAIVERS APPROVED BY THE DEPARTMENT, IN WRITING, BEFORE APRIL 11, 2000, SHALL REMAIN IN EFFECT IF THE SUPPLIER HAS DEMONSTRATED THAT THE SYSTEM IS BOTH FREE OF LEAD-CONTAINING AND COPPER-CONTAINING MATERIALS, AS REQUIRED BY SUBDIVISION (a) OF THIS SUBRULE, AND THAT THE SYSTEM'S NINETIETH PERCENTILE LEAD LEVELS AND NINETIETH PERCENTILE COPPER LEVELS MEET THE CRITERIA OF SUBDIVISION (b) OF THIS SUBRULE, AND THAT THE SUPPLIER CONTINUES TO MEET THE WAIVER ELIGIBILITY CRITERIA OF SUBDIVISION (c) OF THIS SUBRULE. THE FIRST ROUND OF TAP WATER MONITORING CONDUCTED PURSUANT TO SUBDIVISION (d) OF THIS SUBRULE SHALL BE COMPLETED NOT LATER THAN 9 YEARS AFTER THE LAST TIME THE SUPPLIER HAS MONITORED FOR LEAD AND COPPER AT THE TAP.

**R 325.10710b Monitoring requirements for supplies exceeding lead and copper action levels.**

Rule 710b. (1) ~~An owner of a large water system, and an owner of a small or medium-size system that exceeds the lead or copper action level, shall monitor water quality parameters in addition to lead and copper in accordance with this rule.~~ The requirements of this rule are summarized in table 7.2a1 OF THIS RULE. SUPPLIERS OF THE FOLLOWING SYSTEMS SHALL MONITOR FOR WATER QUALITY PARAMETERS IN ADDITION TO LEAD AND COPPER UNDER THIS RULE:

(a) LARGE WATER SYSTEMS.

(b) SMALL AND MEDIUM-SIZE WATER SYSTEMS THAT EXCEED THE LEAD OR COPPER ACTION LEVEL.

~~(2) The following provisions are general requirements that pertain to~~ Sample collection methods PROVISIONS ARE AS FOLLOWS:

(a) Tap samples shall be representative of water quality throughout the distribution system taking all of the following factors into account:

- (i) The number of persons served.
- (ii) The different sources of water.
- (iii) The different treatment methods employed by the supplier.
- (iv) Seasonal variability.

Tap sampling pursuant to the provisions of UNDER this subdivision is not required to be conducted at taps that are targeted for lead and copper sampling pursuant to the provisions of UNDER R 325.10710a(1).

(b) Samples that are collected at the entry point or points to the distribution system shall be from locations that are representative of each source after treatment. If a supply SYSTEM draws water from more than 1 source and the sources are combined before distribution, the supplier shall sample at an entry point to the distribution system during periods of normal operating conditions, for example, when water is representative of all sources that are being used.

~~(3) The following provisions are general requirements that pertain to~~ The number of samples A SUPPLIER IS REQUIRED TO COLLECT ARE AS FOLLOWS:



(a) A supplier shall collect 2 tap samples for applicable water quality parameters during each monitoring period ~~that is specified pursuant to the provisions of IN subrules (4) to (7) of this rule~~ from the following number of sites:

<u>System Size (Number of People Served)</u>	<u>Number of Sites for Water Quality Parameters</u>
More than 100,000	25
10,001 to 100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
Less FEWER than 101	1

(b) ~~A EXCEPT AS PROVIDED IN SUBRULE (5)(c) OF THIS RULE,~~ A supplier shall collect 2 samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period ~~that is specified in subrule (4) of this rule.~~ During each monitoring period ~~that is specified in subrules (5) to (7) of this rule,~~ a supplier shall collect 1 sample for each applicable water quality parameter at each entry point to the distribution system.

(4) ~~An owner~~ THE SUPPLIER of a large water system shall measure the applicable water quality parameters, at the locations specified in the following subdivisions at taps and at each entry point to the distribution system during each 6-month monitoring period ~~that is specified in R 325.10710a(4)(a).~~ ~~An owner~~ THE SUPPLIER of a small or medium-size WATER system shall measure the applicable water quality parameters at the locations specified in the following subdivisions during each 6-month monitoring period, as specified in R 325.10710a(4)(a), that the ~~supply~~ SYSTEM exceeds the lead or copper action level:

(a) At taps, a sample for each of the following:

- (i) pH.
- (ii) Alkalinity.
- (iii) Orthophosphate, when an inhibitor ~~that~~ containsING a phosphate compound is used.
- (iv) Silica, when an inhibitor ~~that~~ containsING a silicate compound is used.
- (v) Calcium.
- (vi) Conductivity.
- (vii) Water temperature.

(b) At each entry point to the distribution system, a sample for each of the applicable parameters that are listed in subdivision (a) of this subrule.

(5) The ~~owner~~ SUPPLIER of a large WATER system ~~who~~ THAT installs optimal corrosion control treatment ~~pursuant to the provisions of UNDER R 325.10604f(2)(d)(iii)~~ shall measure the water quality parameters at the locations and frequencies ~~that is specified in the following subdivisions~~ THIS SUBRULE during each 6-month monitoring period specified in R325.10710a(4)(b)(i). The ~~owner~~ SUPPLIER of a small or medium-size WATER system who installs optimal corrosion control treatment shall measure the water quality parameters at the locations specified in the following subdivisions during each 6month monitoring period, as specified in R 325.10710a(4)(b)(ii), that the system exceeds the lead or copper action level:

(a) At taps, 2 samples for each of the following:

- (i) pH.
- (ii) Alkalinity.

- (iii) Orthophosphate, when an inhibitor ~~that contains~~ING a phosphate compound is used.
- (iv) Silica, when an inhibitor ~~that contains~~ING a silicate compound is used.
- (v) Calcium, when calcium carbonate stabilization is used as part of the corrosion control.
- (b) ~~At EXCEPT AS PROVIDED IN SUBDIVISION (c) OF THIS SUBRULE, AT each entry point to the distribution system, AT LEAST 1 sample NO LESS FREQUENTLY THAN every 2 weeks~~ (biweekly) for each of the following:
  - (i) pH.
  - (ii) When alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical ~~that is used to adjust alkalinity and a reading of the alkalinity concentration.~~
  - (iii) When a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor ~~that is used and a reading of the concentration of orthophosphate or silica, whichever is applicable.~~
- (c) A SUPPLIER OF A GROUND WATER SYSTEM MAY LIMIT ENTRY POINT SAMPLING DESCRIBED IN SUBDIVISION (b) OF THIS SUBRULE TO THOSE ENTRY POINTS THAT ARE REPRESENTATIVE OF WATER QUALITY AND TREATMENT CONDITIONS THROUGHOUT THE SYSTEM. IF WATER FROM UNTREATED GROUND WATER SOURCES MIXES WITH WATER FROM TREATED GROUND WATER SOURCES, THE SUPPLIER SHALL MONITOR FOR WATER QUALITY PARAMETERS BOTH AT REPRESENTATIVE ENTRY POINTS RECEIVING TREATMENT AND REPRESENTATIVE ENTRY POINTS RECEIVING NO TREATMENT. BEFORE THE START OF THE MONITORING UNDER THIS SUBDIVISION, THE SUPPLIER SHALL PROVIDE TO THE DEPARTMENT WRITTEN INFORMATION IDENTIFYING THE SELECTED ENTRY POINTS AND DOCUMENTATION, INCLUDING INFORMATION ON SEASONAL VARIABILITY, SUFFICIENT TO DEMONSTRATE THAT THE SITES ARE REPRESENTATIVE OF WATER QUALITY AND TREATMENT CONDITIONS THROUGHOUT THE SYSTEM.
- (6) After the department specifies the values for applicable water quality control parameters ~~that reflect~~ING optimal corrosion control treatment, ~~an owner~~ THE SUPPLIER of a large WATER system shall measure the applicable water quality parameters ~~in accordance with the provisions of UNDER subrule (5) of this rule during each monitoring period that is specified in R 325.10710a(4)(c).~~ AND DETERMINE COMPLIANCE WITH THE REQUIREMENT OF R 325.10604f(3)(f) EVERY 6 MONTHS WITH THE FIRST 6-MONTH PERIOD TO BEGIN ON THE DATE THE DEPARTMENT SPECIFIES THE OPTIMAL VALUES. The ~~owner~~ SUPPLIER of a small or medium-size WATER system shall measure the applicable water quality parameters ~~in accordance with the provisions of UNDER subrule (5) of this rule during each monitoring 6-MONTH period, as specified in R 325.710A(4)(C) THIS SUBRULE that the supply SYSTEM exceeds the lead or copper action level. The supplier may take a confirmation sample for any water quality parameter value not later than 3 days after the first sample. If a confirmation sample is taken, the result shall be averaged with the first sampling result and the average shall be used for any compliance determinations pursuant to the provisions of R 325.10604f(3)(f). The department may delete the results of obvious sampling errors from the calculation.~~ FOR THE SMALL OR MEDIUM-SIZE WATER SYSTEM SUBJECT TO A REDUCED MONITORING FREQUENCY PURSUANT TO R 325.10710a(4)(d) WHEN THE ACTION LEVEL IS EXCEEDED, THE END OF THE APPLICABLE 6-MONTH PERIOD UNDER THIS SUBRULE SHALL COINCIDE WITH THE END OF THE APPLICABLE MONITORING PERIOD UNDER R 325.10710a(4)(d). COMPLIANCE WITH DEPARTMENT-DESIGNATED OPTIMAL WATER QUALITY PARAMETER VALUES SHALL BE DETERMINED AS SPECIFIED UNDER R 325.10604f(3)(f).
- (7) ~~All of the following provisions apply to r~~Reduced monitoring PROVISIONS ARE AS FOLLOWS:

(a) ~~The owner of a water system~~ A SUPPLIER that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of 2 consecutive 6-month monitoring periods ~~pursuant to the provisions of~~ UNDER subrule (6) of this rule shall continue monitoring APPLICABLE WATER QUALITY PARAMETERS at the ~~entry point or points to the distribution system as~~ LOCATIONS AND FREQUENCIES specified in subrule (5)(b) of this rule. The ~~owner of the system~~ SUPPLIER may ~~collect 2 tap samples for applicable water quality parameters from the following reduced~~ REDUCE THE number of sites FROM WHICH IT MONITORS during each 6-month monitoring period TO THE FOLLOWING:

System Size (Number of People Served)	Reduced Number of Sites For Water Quality Parameters
More than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
<del>Less</del> FEWER than 101	1

(b) REDUCED MONITORING FREQUENCY PROVISIONS ARE AS FOLLOWS:

(i) A SUPPLIER THAT MAINTAINS THE RANGE OF VALUES FOR THE WATER QUALITY PARAMETERS REFLECTING OPTIMAL CORROSION CONTROL TREATMENT SPECIFIED BY THE DEPARTMENT DURING 3 CONSECUTIVE YEARS OF MONITORING SPECIFIED IN THIS SUBDIVISION MAY REDUCE THE FREQUENCY WITH WHICH IT COLLECTS THE NUMBER OF TAP SAMPLES FOR APPLICABLE WATER QUALITY PARAMETERS SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE FROM EVERY 6 MONTHS TO ANNUALLY. A ~~water~~ supplier that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department during 3 consecutive years of annual monitoring ~~pursuant to the provisions of~~ SPECIFIED IN this subdivision may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subdivision (a) of this subrule from annually to every 3 years.

(ii) A SUPPLIER MAY REDUCE THE FREQUENCY WITH WHICH IT COLLECTS TAP SAMPLES FOR APPLICABLE WATER QUALITY PARAMETERS SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE TO EVERY 3 YEARS IF IT DEMONSTRATES DURING 2 CONSECUTIVE MONITORING PERIODS THAT ITS TAP WATER LEAD LEVEL AT THE NINETIETH PERCENTILE IS LESS THAN OR EQUAL TO THE PQL FOR LEAD SPECIFIED IN 40 C.F.R §141.89(a)(1)(ii), AS ADOPTED BY REFERENCE IN R 325.10605, THAT ITS TAP WATER COPPER LEVEL AT THE NINETIETH PERCENTILE IS LESS THAN OR EQUAL TO 0.65 MG/L FOR COPPER IN R 325.10604f(3)(f), AND THAT IT ALSO HAS MAINTAINED THE RANGE OF VALUES FOR THE WATER QUALITY PARAMETERS REFLECTING OPTIMAL CORROSION CONTROL TREATMENT SPECIFIED BY THE DEPARTMENT.

(c) ~~The owner of a water supply for which sampling is conducted~~ A SUPPLIER THAT CONDUCTS SAMPLING annually shall collect the samples evenly throughout the year ~~so as~~ to reflect seasonal variability.

(d) The ~~owner~~ SUPPLIER of a ~~water supply that is~~ SYSTEM subject to the reduced monitoring frequency who fails to operate AT OR ABOVE THE MINIMUM VALUE OR within the range of values for the water quality parameters specified by the department FOR MORE THAN 9 DAYS IN A 6-MONTH PERIOD

SPECIFIED IN R 325.10604f(3)(f) shall resume DISTRIBUTION SYSTEM tap water sampling ~~in accordance with~~ UNDER the number and frequency requirements specified in subrule (6) of this rule. THE SUPPLIER MAY RESUME ANNUAL MONITORING FOR WATER QUALITY PARAMETERS AT THE TAP AT THE REDUCED NUMBER OF SITES SPECIFIED IN SUBDIVISION (a) OF THIS SUBRULE AFTER IT HAS COMPLETED 2 SUBSEQUENT CONSECUTIVE 6-MONTH ROUNDS OF MONITORING THAT MEET THE CRITERIA OF THAT SUBDIVISION OR MAY RESUME TRIENNIAL MONITORING FOR WATER QUALITY PARAMETERS AT THE TAP AT THE REDUCED NUMBER OF SITES AFTER IT DEMONSTRATES THROUGH SUBSEQUENT ROUNDS OF MONITORING THAT IT MEETS THE CRITERIA OF EITHER SUBDIVISION (b)(i) OR (ii) OF THIS SUBRULE.

(8) ~~Both of the following provisions apply to a~~Additional monitoring by suppliers PROVISIONS ARE AS FOLLOWS:

(a) The results of monitoring ~~that is~~ conducted in addition to the minimum requirements of this rule shall be considered in determining the concentrations of water quality parameters.

(b) A ~~water~~ supplier that fails to meet the lead action level BASED on ~~the basis of~~ tap samples ~~that are collected in accordance with the provisions of~~ UNDER R 325.10710a shall offer to arrange for sampling the tap water of ~~any~~ A customer who requests ~~it~~ SAMPLING. The supplier is not required to pay for collecting or analyzing the sample and is not required to collect and analyze the sample.

(9) Table ~~7.2a~~1 OF THIS RULE reads as follows:

Table ~~7.2a~~1 SUMMARY OF MONITORING REQUIREMENTS FOR WATER QUALITY PARAMETERS – LEAD, COPPER, CORROSION CONTROL<sup>1</sup>

Monitoring Period	Parameters <sup>2</sup>	Location	Frequency
Initial monitoring	pH, alkalinity, orthophosphate or silica <sup>3</sup> , calcium, conductivity, temperature	Taps and at entry point or points to distribution system	6 months
After installation of corrosion control	pH, alkalinity, orthophosphate or silica <sup>3</sup> , calcium <sup>4</sup>	Taps	Every 6 months
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual <sup>5</sup>	Entry point or points to distribution system <sup>6</sup>	<del>Biweekly</del> NO LESS FREQUENTLY THAN EVERY 2 WEEKS
After department specifies parameter values for optimal corrosion control	pH, alkalinity, orthophosphate or silica <sup>3</sup> , calcium <sup>4</sup>	Taps	Every 6 months

	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual <sup>5</sup>	Entry point or points to Distribution system <sup>6</sup>	<del>Biweekly</del> NO LESS FREQUENTLY THAN EVERY 2 WEEKS
Reduced monitoring	PH, alkalinity, orthophosphate or silica <sup>3</sup> , calcium <sup>4</sup>	Taps	Every 6 months ANNUALLY <sup>7</sup> OR EVERY 3 YEARS <sup>8</sup> at a reduced number of sites
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted control), inhibitor dosage rate and inhibitor residual <sup>5</sup>	Entry point or points to distribution system <sup>6</sup>	<del>Biweekly</del> NO LESS FREQUENTLY THAN EVERY 2 WEEKS

<sup>1</sup> Table is for illustrative purposes; consult the text of this part for precise regulatory requirements.

<sup>2</sup> SUPPLIERS OF ~~Small~~ and medium-size WATER systems ~~have to~~ SHALL monitor for water quality parameters only during monitoring periods in which the ~~supply~~ SYSTEM exceeds the lead or copper action level.

<sup>3</sup> Orthophosphate shall be measured ~~only~~ when an inhibitor containing a phosphate compound is used. Silica shall be measured ~~only~~ when an inhibitor containing silicate compound is used.

<sup>4</sup> Calcium shall be measured ~~only~~ when calcium carbonate stabilization is used as part of corrosion control.

<sup>5</sup> Inhibitor dosage rates and inhibitor residual concentrations (orthophosphate or silica) shall be measured ~~only~~ when an inhibitor is used.

<sup>6</sup> GROUND WATER SUPPLIERS MAY LIMIT MONITORING TO REPRESENTATIVE LOCATIONS THROUGHOUT THE SYSTEM.

<sup>7</sup> SUPPLIERS MAY REDUCE FREQUENCY OF MONITORING FOR WATER QUALITY PARAMETERS AT THE TAP FROM EVERY 6 MONTHS TO ANNUALLY IF THEY HAVE MAINTAINED THE RANGE OF VALUES FOR WATER QUALITY PARAMETERS REFLECTING OPTIMAL CORROSION CONTROL DURING 3 CONSECUTIVE YEARS OF MONITORING.

<sup>8</sup> SUPPLIERS MAY FURTHER REDUCE THE FREQUENCY OF MONITORING FOR WATER QUALITY PARAMETERS AT THE TAP FROM ANNUALLY TO ONCE EVERY 3 YEARS IF THEY HAVE MAINTAINED THE RANGE OF VALUES FOR WATER QUALITY PARAMETERS REFLECTING OPTIMAL CORROSION CONTROL DURING 3 CONSECUTIVE YEARS OF ANNUAL MONITORING. SUPPLIERS MAY ACCELERATE TO TRIENNIAL MONITORING FOR

WATER QUALITY PARAMETERS AT THE TAP IF THEY HAVE MAINTAINED NINETIETH PERCENTILE LEAD LEVELS LESS THAN OR EQUAL TO 0.005 MG/L, NINETIETH PERCENTILE COPPER LEVELS LESS THAN OR EQUAL TO 0.65 MG/L, AND THE RANGE OF WATER QUALITY PARAMETERS DESIGNATED BY THE DEPARTMENT AS REPRESENTING OPTIMAL CORROSION CONTROL DURING 2 CONSECUTIVE 6-MONTH MONITORING PERIODS.

**R 325.10710c Monitoring requirements for lead and copper in source water.**

Rule 710c. (1) ~~Both of the following provisions apply to monitoring for lead and copper in source water with respect to s~~Sample location, collection methods, and number of samples REQUIRED FOR LEAD AND COPPER MONITORING IN SOURCE WATER ARE AS FOLLOWS:

(a) The ~~owner~~ SUPPLIER of a ~~water supply~~ SYSTEM that fails to meet the lead or copper action level BASED on the ~~basis of~~ tap samples that are collected in accordance with the provisions of UNDER R 325.10710a shall collect lead and copper source water samples in accordance with UNDER the FOLLOWING requirements regarding sample location, number of samples, and collection methods: ~~specified in R 325.10710(1) to (4). However, the timing of sampling for lead and copper shall be in compliance with the provisions of subrules (2) and (3) of this rule and not in compliance with the dates that are specified in R 325.10710(4).~~

(i) SUPPLIERS OF GROUND WATER SYSTEMS SHALL TAKE A MINIMUM OF 1 SAMPLE AT EVERY ENTRY POINT TO THE DISTRIBUTION SYSTEM WHICH IS REPRESENTATIVE OF EACH WELL AFTER TREATMENT, HEREFTER CALLED A SAMPLING POINT. THE SUPPLIER SHALL TAKE 1 SAMPLE AT THE SAME SAMPLING POINT UNLESS CONDITIONS MAKE ANOTHER SAMPLING POINT MORE REPRESENTATIVE OF EACH SOURCE OR TREATMENT PLANT.

(ii) SUPPLIERS OF SURFACE WATER SYSTEMS SHALL TAKE A MINIMUM OF 1 SAMPLE AT EVERY ENTRY POINT TO THE DISTRIBUTION SYSTEM AFTER THE APPLICATION OF TREATMENT OR IN THE DISTRIBUTION SYSTEM AT A POINT WHICH IS REPRESENTATIVE OF EACH SOURCE AFTER TREATMENT, HEREFTER CALLED A SAMPLING POINT. THE SUPPLIER SHALL TAKE EACH SAMPLE AT THE SAME SAMPLING POINT UNLESS CONDITIONS MAKE ANOTHER SAMPLING POINT MORE REPRESENTATIVE OF EACH SOURCE OR TREATMENT PLANT. FOR PURPOSES OF THIS PARAGRAPH, SURFACE WATER SYSTEMS INCLUDE SYSTEMS WITH A COMBINATION OF SURFACE AND GROUND SOURCES.

(iii) IF A SYSTEM DRAWS WATER FROM MORE THAN 1 SOURCE AND THE SOURCES ARE COMBINED BEFORE DISTRIBUTION, THE SUPPLIER SHALL SAMPLE AT AN ENTRY POINT TO THE DISTRIBUTION SYSTEM DURING PERIODS OF NORMAL OPERATING CONDITIONS, THAT IS, WHEN WATER IS REPRESENTATIVE OF ALL SOURCES BEING USED.

(b) If the results of sampling indicate ~~that~~ AN EXCEEDANCE OF the maximum permissible source water levels established by the department ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(b), then the department may require that 1 additional sample be collected as soon as possible after the initial sample was taken, but not more than 2 weeks later, at the same sampling point. If a department-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation samples shall be averaged ~~in~~ TO determiningE compliance with the department-specified maximum permissible levels. A sample value ~~that is~~ below the detection limit shall be considered to be zero. A value ~~that is~~ above the detection limit, but below the PQL, shall either be considered as the measured value or be considered 1/2 of the PQL.

(2) The ~~owner~~ SUPPLIER of a ~~supply~~ SYSTEM that exceeds the lead or copper action level at the tap shall collect 1 source water sample from each entry point to the distribution system within 6 months after the action level is exceeded.

(3) A supplier that installs source water treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(a)(ii) shall collect an additional source water sample from each entry point to the distribution system during 2 consecutive 6-month monitoring periods by the deadline specified in R 325.10604f(4)(a)(iii).

(4) ~~Both of~~ The following provisions apply to the monitoring frequency after the department specifies maximum permissible source water levels or determines that source water treatment is not needed:

(a) A supplier shall monitor at the frequency specified in the following paragraphs where the department specifies maximum permissible source water levels ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(b) or determines that the supplier is not required to install source water treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(b)(ii):

(i) ~~The owner of a water supply that uses~~ A SUPPLIER OF only groundwater shall collect samples once during the 3-year compliance period, as defined in R 325.10103, that is in effect when the applicable department determination ~~pursuant to the provisions of~~ UNDER this subdivision is made. The ~~owner~~ SUPPLIER shall collect samples once during each subsequent compliance period.

(ii) ~~The owner of a water supply that uses~~ A SUPPLIER OF surface water or a combination of surface water and groundwater shall collect samples once during each year. The first annual monitoring period shall begin on the date on which the applicable department determination is made ~~pursuant to the provisions of~~ UNDER this subdivision.

(b) A supplier is not required to conduct source water sampling for lead or copper if the ~~supply~~ SYSTEM is in compliance with the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the ~~supply pursuant to the provisions of~~ SYSTEM UNDER subdivision (a)(i) and (ii) of this subrule.

(5) ~~All of the following provisions apply to~~ Reduced monitoring frequency PROVISIONS ARE AS FOLLOWS:

(a) ~~The owner of a water supply that uses~~ A SUPPLIER OF only groundwater ~~who demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead or copper concentrations, or both, that are specified by the department in R 325.10604(4)(b) during not less than 3 consecutive compliance periods pursuant to the provisions of subrule (4)(a) of this rule~~ may reduce the monitoring frequency for lead ~~or~~ AND copper, ~~or both,~~ IN SOURCE WATER to once during each 9-year compliance cycle, as defined in R 325.10103 IF THE SYSTEM MEETS 1 OF THE FOLLOWING CRITERIA:-

(i) THE SUPPLIER DEMONSTRATES THAT FINISHED DRINKING WATER ENTERING THE DISTRIBUTION SYSTEM HAS BEEN MAINTAINED BELOW THE MAXIMUM PERMISSIBLE LEAD AND COPPER CONCENTRATIONS SPECIFIED BY THE DEPARTMENT IN R 325.10604f(4)(b)(iv) DURING NOT LESS THAN 3 CONSECUTIVE COMPLIANCE PERIODS UNDER SUBRULE (4)(a) OF THIS RULE.

(ii) THE DEPARTMENT HAS DETERMINED THAT SOURCE WATER TREATMENT IS NOT NEEDED AND THE SUPPLIER DEMONSTRATES THAT, DURING NOT LESS THAN 3 CONSECUTIVE COMPLIANCE PERIODS IN WHICH SAMPLING WAS CONDUCTED UNDER SUBRULE (4)(a) OF THIS RULE, THE CONCENTRATION OF LEAD IN SOURCE WATER WAS LESS THAN OR EQUAL TO 0.005 MG/L AND THE CONCENTRATION OF COPPER IN SOURCE WATER WAS LESS THAN OR EQUAL TO 0.65 MG/L.

~~(b) The owner of a water supply that uses~~ THE SUPPLIER OF surface water or a combination of surface water and groundwater, ~~who demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the department in R 325.10604(4)(b) for not less than 3 consecutive years~~ may reduce the monitoring frequency in subrule (4)(a) of this rule to once during each 9-year compliance cycle, as defined in R 325.10103 IF THE SYSTEM MEETS EITHER OF THE FOLLOWING CRITERIA:

(i) THE SUPPLIER DEMONSTRATES THAT FINISHED DRINKING WATER ENTERING THE DISTRIBUTION SYSTEM HAS BEEN MAINTAINED BELOW THE MAXIMUM PERMISSIBLE LEAD AND COPPER CONCENTRATIONS SPECIFIED BY THE DEPARTMENT IN R 325.10604f(4)(b)(iv) FOR NOT LESS THAN 3 CONSECUTIVE YEARS.

(ii) THE DEPARTMENT HAS DETERMINED THAT SOURCE WATER TREATMENT IS NOT NEEDED AND THE SUPPLIER DEMONSTRATES THAT, DURING NOT LESS THAN 3 CONSECUTIVE YEARS, THE CONCENTRATION OF LEAD IN SOURCE WATER WAS LESS THAN OR EQUAL TO 0.005 MG/L AND THE CONCENTRATION OF COPPER IN SOURCE WATER WAS LESS THAN OR EQUAL TO 0.65 MG/L.

~~(c) The owner of a water supply~~ A SYSTEM that uses a new source of water is not eligible for reduced monitoring for lead or copper until concentrations in samples ~~that are~~ collected from the new source during 3 consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the department in R 325.10604f(4).

#### **R 325.10710d Reporting requirements for lead, copper, and corrosion control.**

Rule 710d. A ~~water~~ supplier shall report all of the following information to the department ~~in accordance with~~ UNDER this rule:

~~(a) All of the following provisions apply to r~~Reporting PROVISIONS for tap water monitoring for lead and copper and for water quality parameter monitoring ARE AS FOLLOWS:

~~(i) A water~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (G) OF THIS PARAGRAPH, A supplier shall report the information ~~that is specified in all of the following provisions~~ THIS PARAGRAPH for all tap water samples SPECIFIED IN R 325.10710a AND FOR ALL WATER QUALITY PARAMETER SAMPLES SPECIFIED IN R 325.10710b within the first 10 days after the end of each applicable monitoring period ~~that is specified in R 325.10710a AND R 325.10710b, and R 325.10710e, for example, every 6-months, annually, or every 3 years, OR EVERY 9 YEARS:~~

(A) The results of all tap samples for lead and copper, including the location of each site and the criteria in R 325.10710a(1)(c), (d), (e), (f), or (g) used to select the site for the ~~supply's~~ SYSTEM'S sampling pool.

~~(B) Certification that each first draw sample that is collected by the water supplier is 1 liter in volume and, to the best of the supplier's knowledge, has stood motionless in the service line or in the interior plumbing of a sampling site for not less than 6 hours.~~ DOCUMENTATION FOR EACH TAP WATER LEAD OR COPPER SAMPLE FOR WHICH THE SUPPLIER REQUESTS INVALIDATION PURSUANT TO R 325.10710a(6)(b).

~~(C) Where residents collected samples, certification that each tap sample that was collected by the residents was taken after the supplier informed the residents of the proper sampling procedures specified in R 325.10710a(2)(b).~~

~~(D)~~ (C)The ninetieth percentile lead and copper concentrations measured from among all lead and copper tap water samples ~~that were~~ collected during each monitoring period, calculated in compliance with the provisions of R 325.10604f(1)(c)(i), UNLESS THE DEPARTMENT CALCULATES THE SYSTEM'S NINETIETH PERCENTILE LEAD AND COPPER LEVELS UNDER SUBDIVISION (h) OF THIS SUBRULE.



~~(E)~~(D) With the exception of initial tap sampling ~~that is conducted pursuant to the provisions of~~ UNDER R 325.10710a(4)(a), a supplier shall designate ~~any siteS that was not sampled during previous monitoring periods and include an explanation of why sampling sites have changed.~~

~~(F)~~(E) The results of all tap samples for pH and, where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected ~~pursuant to the provisions of~~ UNDER R 325.10710b(b) to (e).

~~(G)~~(F) The results of all samples ~~that were collected at the entry point or points to the distribution system for applicable water quality parameters pursuant to the provisions of~~ UNDER R 325.10710b(b) to (e).

(G) A SUPPLIER SHALL REPORT THE RESULTS OF ALL WATER QUALITY PARAMETER SAMPLES COLLECTED UNDER R 325.10710b(5) THROUGH (8) DURING EACH 6-MONTH MONITORING PERIOD SPECIFIED IN R 325.10710b(6) WITHIN THE FIRST 10 DAYS FOLLOWING THE END OF THE MONITORING PERIOD, UNLESS THE DEPARTMENT HAS SPECIFIED A MORE FREQUENT REPORTING REQUIREMENT.

(ii) ~~By the applicable date specified in R 325.10710a(4)(a) for the commencement of monitoring, each community water supplier that does not complete its targeted sampling pool with tier 1 sampling sites that are in compliance with the criteria specified in R 325.10710a(1)(c) shall send documentation to the department justifying its selection of tier 2 or tier 3, or tier 2 and 3, sampling sites pursuant to the provisions of R 325.10710a(1)(d) or (1)(e).~~ FOR A NONTRANSIENT NONCOMMUNITY WATER SYSTEM, OR A COMMUNITY WATER SYSTEM MEETING THE CRITERIA OF R 325.10410(8)(a) AND (b), THAT DOES NOT HAVE ENOUGH TAPS THAT CAN PROVIDE FIRST-DRAW SAMPLES, THE SUPPLIER SHALL DO EITHER OF THE FOLLOWING AS APPROPRIATE:

(A) PROVIDE WRITTEN DOCUMENTATION TO THE DEPARTMENT IDENTIFYING STANDING TIMES AND LOCATIONS FOR ENOUGH NON-FIRST-DRAW SAMPLES TO MAKE UP ITS SAMPLING POOL UNDER R 325.10710a(2)(e) BY THE START OF THE FIRST APPLICABLE MONITORING PERIOD UNDER R 325.10710a(4) THAT COMMENCES AFTER APRIL 11, 2000, UNLESS THE DEPARTMENT HAS WAIVED PRIOR DEPARTMENT APPROVAL OF NON-FIRST-DRAW SAMPLE SITES SELECTED BY THE SUPPLIER PURSUANT TO R 325.10710a(2)(e).

(B) IF THE DEPARTMENT HAS WAIVED PRIOR APPROVAL OF NON-FIRST-DRAW SAMPLE SITES SELECTED BY THE SUPPLIER, IDENTIFY, IN WRITING, EACH SITE THAT DID NOT MEET THE 6-HOUR MINIMUM STANDING TIME AND THE LENGTH OF STANDING TIME FOR THAT PARTICULAR SUBSTITUTE SAMPLE COLLECTED PURSUANT TO R 325.10710a(2)(e) AND INCLUDE THIS INFORMATION WITH THE LEAD AND COPPER TAP SAMPLE RESULTS SUBMITTED PURSUANT TO SUBDIVISION (a)(i) OF THIS SUBRULE.

(iii) ~~By the applicable date specified in R 325.10710a(4)(a) for the commencement of monitoring, each nontransient, noncommunity water supplier that does not complete its sampling pool with tier 1 sampling sites that are in compliance with the criteria specified in R 325.10710a(1)(f) shall send documentation to the department justifying its selection of sampling sites pursuant to the provisions of R 325.10710a(1)(g).~~ NOT LATER THAN 60 DAYS AFTER THE ADDITION OF A NEW SOURCE OR A CHANGE IN WATER TREATMENT, UNLESS THE DEPARTMENT REQUIRES EARLIER NOTIFICATION, A SUPPLIER CONSIDERED TO HAVE OPTIMIZED CORROSION CONTROL UNDER R 325.10604f(2)(b), A SYSTEM SUBJECT TO REDUCED MONITORING PURSUANT TO R 325.10710a(4)(d), OR A SYSTEM SUBJECT TO A MONITORING WAIVER PURSUANT TO R 325.10710a(7) SHALL SEND WRITTEN DOCUMENTATION TO THE DEPARTMENT DESCRIBING THE CHANGE. IF PRIOR DEPARTMENT APPROVAL OF THE TREATMENT CHANGE OR NEW SOURCE IS NOT REQUIRED, SUPPLIERS ARE ENCOURAGED TO PROVIDE THE NOTIFICATION TO THE

DEPARTMENT BEFOREHAND TO MINIMIZE THE RISK THE TREATMENT CHANGE OR NEW SOURCE WILL ADVERSELY AFFECT OPTIMAL CORROSION CONTROL.

(iv) ~~By the applicable date specified in R 325.10710a(4)(a) for the commencement of monitoring, the owner of each water supply that has lead service lines who is not able to locate the number of sites served by the lines, as required pursuant to the provisions of R 325.10710a(1)(i), shall send documentation to the department demonstrating why the owner was unable to locate a sufficient number of the sites based upon the information listed in R 325.10710a(1)(b).~~ THE SUPPLIER OF A SMALL WATER SYSTEM APPLYING FOR A MONITORING WAIVER UNDER R 325.10710a(7), OR SUBJECT TO A WAIVER GRANTED PURSUANT TO R 325.10710a(7)(c), SHALL PROVIDE ALL OF THE FOLLOWING INFORMATION TO THE DEPARTMENT, IN WRITING, BY THE SPECIFIED DEADLINE:

(A) BY THE START OF THE FIRST APPLICABLE MONITORING PERIOD IN R 325.10710a(4), THE SUPPLIER OF A SMALL WATER SYSTEM APPLYING FOR A MONITORING WAIVER SHALL PROVIDE THE DOCUMENTATION REQUIRED TO DEMONSTRATE THAT IT MEETS THE WAIVER CRITERIA OF R 325.10710a(7)(a) AND (b).

(B) NOT LATER THAN 9 YEARS AFTER THE MONITORING PREVIOUSLY CONDUCTED PURSUANT TO R 325.10710a(7)(b) OR R 325.10710a(7)(d)(i), THE SUPPLIER OF A SMALL WATER SYSTEM DESIRING TO MAINTAIN ITS MONITORING WAIVER SHALL PROVIDE THE INFORMATION REQUIRED BY R 325.10710a(7)(d)(i) AND (ii).

(C) NOT LATER THAN 60 DAYS AFTER THE SUPPLIER BECOMES AWARE THAT THE SYSTEM IS NO LONGER FREE OF LEAD-CONTAINING OR COPPER-CONTAINING MATERIAL, OR BOTH, AS APPROPRIATE, THE SUPPLIER OF A SMALL WATER SYSTEM WITH A MONITORING WAIVER SHALL PROVIDE WRITTEN NOTIFICATION TO THE DEPARTMENT, SETTING FORTH THE CIRCUMSTANCES RESULTING IN THE LEAD-CONTAINING OR COPPER-CONTAINING MATERIALS, OR BOTH, BEING INTRODUCED INTO THE SYSTEM AND WHAT CORRECTIVE ACTION, IF ANY, THE SUPPLIER PLANS TO REMOVE THESE MATERIALS.

(v) ~~Each water supplier that requests that the department reduce the number and frequency of sampling shall provide the information required pursuant to the provisions of R 325.10710a.~~ FOR EACH GROUND WATER SYSTEM THAT LIMITS WATER QUALITY PARAMETER MONITORING TO A SUBSET OF ENTRY POINTS UNDER R 325.10710b(5)(c), THE SUPPLIER SHALL PROVIDE, BY THE COMMENCEMENT OF THE MONITORING, WRITTEN CORRESPONDENCE TO THE DEPARTMENT THAT IDENTIFIES THE SELECTED ENTRY POINTS AND INCLUDES INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITES ARE REPRESENTATIVE OF WATER QUALITY AND TREATMENT CONDITIONS THROUGHOUT THE SYSTEM.

(b) ~~Both of the following provisions apply to s~~Source water monitoring PROVISIONS ARE AS FOLLOWS:

(i) A ~~water~~ supplier shall report the sampling results for all source water samples ~~that are collected in accordance with the provisions of~~ UNDER R 325.10710c within the first 10 days after the end of each source water monitoring period, for example, annually, per compliance period, or per compliance cycle, ~~that is specified in R 325.10710c.~~

(ii) With the exception of the first round of source water sampling ~~that is conducted pursuant to the provisions of~~ UNDER R 325.10710c(2), a supplier shall specify ~~any~~ siteS that ~~was~~ WERE not sampled during previous monitoring periods and include an explanation of why the sampling pointS ~~has~~ HAVE changed.

(c) ~~by the applicable dates specified in R 325.10604f(2), aA~~ supplier shall report all of the following CORROSION CONTROL TREATMENT information ~~with respect to corrosion control treatment~~ TO THE DEPARTMENT BY THE APPLICABLE DATES SPECIFIED IN R 325.10604f(2):

- (i) For a supplier that ~~demonstrates that it~~ has already optimized corrosion control, the information required in R 325.10604f(2)(b)(ii) or (iii).
- (ii) For a supplier ~~that is~~ required to optimize corrosion control, the supplier's recommendation regarding optimal corrosion control treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(3)(a).
- (iii) For a supplier that is required to evaluate the effectiveness of corrosion control treatments ~~pursuant to the provisions of~~ UNDER R 325.10604f(3)(c), the information ~~that is~~ required by R 325.10604f(3)(c).
- (iv) For a supplier ~~that is~~ required to install optimal corrosion control designated by the department ~~pursuant to the provisions of~~ UNDER R 325.10604f(3)(d), documentation certifying that the ~~owner of the system~~ SUPPLIER has completed installing the optimal corrosion control.
- (d) ~~By the applicable dates specified in R 325.10604f(4),~~ a A supplier shall provide the following SOURCE WATER TREATMENT information to the department ~~BY THE APPLICABLE DATES SPECIFIED IN~~ R 325.10604f(4):
  - (i) If required ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(b)(i), the supplier's recommendation regarding source water treatment.
  - (ii) For a supplier ~~that is~~ required to install source water treatment ~~pursuant to the provisions of~~ UNDER R 325.10604f(4)(b)(ii), documentation certifying that the supplier has completed installing the treatment designated by the department within 24 months after the department designated the treatment.
- (e) A supplier shall report all of the following LEAD SERVICE LINE REPLACEMENT information to the department to demonstrate compliance with the requirements of R 325.10604f(5):
  - (i) Within 12 months after a ~~supply~~ SYSTEM exceeds the lead action level in sampling referred to in R 325.10604f(5)(a), the supplier shall submit a written report to the department that demonstrates ~~that~~ the supplier has conducted a materials evaluation, including the evaluation specified in R 325.10710a(1), to identify the initial number of lead service lines in its distribution system and shall provide the department with the supplier's schedule for replacing annually not less than 7% of the initial number of lead service lines in its distribution system.
  - (ii) Within 12 months after a ~~supply~~ SYSTEM exceeds the lead action level in sampling referred to in R 325.10604f(5)(a), and every 12 months thereafter, the supplier shall submit a written report to the department that demonstrates ~~that~~ the supplier has complied with either of the following requirements:
    - (A) Replaced, in the previous 12 months, not less than 7% of the initial lead service lines, or a greater number of lines specified by the department ~~pursuant to the provisions of~~ UNDER R 325.10604f(5)(4), in its distribution system.
    - (B) Conducted sampling ~~which demonstrates that~~ING THAT the lead concentration in all service line samples from an individual line or lines, taken ~~pursuant to the provisions of~~ UNDER R 325.10710a(2)(c), is less than or equal to 0.015 mg/l. In ~~such~~ THOSE cases, the total number of lines ~~which~~ THAT were replaced or ~~which~~ THAT meet the criteria specified in R 325.10604f(5)(c), or both, shall equal not less than 7% of the initial number of lead lines identified ~~pursuant to the provisions of~~ UNDER subdivision (a) of this rule or the percentage ~~that is~~ specified by the department ~~pursuant to the provisions of~~ UNDER R 325.10604f(5)(4).
  - (iii) The annual documentation submitted to the department ~~pursuant to the provisions of~~ UNDER PARAGRAPH (ii) of this subdivision, which shall contain all of the following information:
    - (A) The number of lead service lines ~~that are~~ scheduled to be replaced during the previous year of the ~~supply's~~ SYSTEM'S replacement schedule.
    - (B) The number and location of each lead service line ~~that was~~ replaced during the previous year of the ~~supply's~~ SYSTEM'S replacement schedule.
    - (C) If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

~~(iv) As soon as practicable, but not later than 3 months after a supply exceeds the lead action level in sampling referred to in R 325.10604f(a), any supplier seeking to rebut the presumption that it has control over the entire lead service line pursuant to the provisions of R 325.10604f(d) shall submit documentation to the department describing the legal authority, for example, DEPARTMENT statutes, municipal ordinances, public service contracts, or other applicable legal authority, that limits the supplier's control over the service lines and the extent of the system's control.~~ AT THE REQUEST OF THE DEPARTMENT, A SUPPLIER THAT COLLECTS LEAD SERVICE LINE SAMPLES FOLLOWING PARTIAL LEAD SERVICE LINE REPLACEMENT REQUIRED BY R 325.10604f(5) SHALL REPORT THE RESULTS TO THE DEPARTMENT AS SPECIFIED IN R 325.10734(1). SUPPLIERS SHALL ALSO REPORT ADDITIONAL INFORMATION AS SPECIFIED BY THE DEPARTMENT UNDER R 325.11505(2) TO VERIFY THAT ALL PARTIAL LEAD SERVICE LINE REPLACEMENT ACTIVITIES HAVE TAKEN PLACE.

(f) A SUPPLIER SHALL PROVIDE THE FOLLOWING PUBLIC EDUCATION REPORTING INFORMATION TO THE DEPARTMENT: ~~By December 31 of each year, a supplier that is subject to the public education requirements in R 325.10410 shall submit documentation to the department demonstrating that the supplier has delivered the public education materials that are in compliance with the content requirements specified in R 325.10410 and the delivery requirements in R 325.10410. The information shall include a list of all of the newspapers, radio stations, television stations, facilities, and organizations to which the supplier delivered public education materials during the previous year. The water supplier shall submit the documentation required by this subdivision annually for as long as the water supply exceeds the lead action level.~~

(i) IF A SYSTEM IS SUBJECT TO THE PUBLIC EDUCATION REQUIREMENTS IN R325.10410, THE SUPPLIER SHALL, WITHIN 10 DAYS AFTER THE END OF EACH PERIOD IN WHICH THE SUPPLIER IS REQUIRED TO PERFORM PUBLIC EDUCATION TASKS UNDER R325.10410(2), SEND WRITTEN DOCUMENTATION TO THE DEPARTMENT THAT CONTAINS BOTH OF THE FOLLOWING:

(A) A DEMONSTRATION THAT THE SUPPLIER HAS DELIVERED THE PUBLIC EDUCATION MATERIALS THAT MEET THE CONTENT REQUIREMENTS IN R 325.10410(1) AND THE DELIVERY REQUIREMENTS IN R 325.10410(2) AND (3).

(B) A LIST OF ALL THE NEWSPAPERS, RADIO STATIONS, TELEVISION STATIONS, AND FACILITIES AND ORGANIZATIONS TO WHICH THE SUPPLIER DELIVERED PUBLIC EDUCATION MATERIALS DURING THE PERIOD IN WHICH THE SUPPLIER WAS REQUIRED TO PERFORM PUBLIC EDUCATION TASKS.

(ii) UNLESS REQUIRED BY THE DEPARTMENT, A SUPPLIER THAT PREVIOUSLY HAS SUBMITTED THE INFORMATION REQUIRED BY PARAGRAPH (i)(B) OF THIS SUBDIVISION NEED NOT RESUBMIT THE INFORMATION REQUIRED BY PARAGRAPH (i)(B) OF THIS SUBDIVISION, IF THERE HAVE BEEN NO CHANGES IN THE DISTRIBUTION LIST AND THE SUPPLIER CERTIFIES THAT THE PUBLIC EDUCATION MATERIALS WERE DISTRIBUTED TO THE SAME LIST SUBMITTED PREVIOUSLY.

(g) A supplier that collects sampling data in addition to that required by this part shall report the results to the department within the first 10 days following the end of the applicable monitoring period specified in R 325.10710a, R 325.10710b, and R 325.10710c during which the samples are collected.

(h) A SUPPLIER IS NOT REQUIRED TO REPORT THE NINETIETH PERCENTILE LEAD AND COPPER CONCENTRATIONS MEASURED FROM AMONG ALL LEAD AND COPPER TAP WATER SAMPLES COLLECTED DURING EACH MONITORING PERIOD, AS REQUIRED BY

SUBRULE (1)(a)(i)(D) OF THIS RULE IF BOTH OF THE FOLLOWING PROVISIONS ARE SATISFIED:

(i) THE DEPARTMENT HAS PREVIOUSLY NOTIFIED THE SUPPLIER THAT IT WILL CALCULATE THE SYSTEM'S NINETIETH PERCENTILE LEAD AND COPPER CONCENTRATIONS, BASED ON THE LEAD AND COPPER TAP RESULTS SUBMITTED PURSUANT TO PARAGRAPH (ii)(A) OF THIS SUBDIVISION, AND HAS SPECIFIED A DATE BEFORE THE END OF THE APPLICABLE MONITORING PERIOD BY WHICH THE SUPPLIER SHALL PROVIDE THE RESULTS OF LEAD AND COPPER TAP WATER SAMPLES.

(ii) THE SUPPLIER HAS PROVIDED THE FOLLOWING INFORMATION TO THE DEPARTMENT BY THE DATE SPECIFIED IN PARAGRAPH (i) OF THIS SUBDIVISION:

(A) THE RESULTS OF ALL TAP SAMPLES FOR LEAD AND COPPER INCLUDING THE LOCATION OF EACH SITE AND THE CRITERIA UNDER R 325.10710a(1)(c), (d), (e), (f), OR (g), UNDER WHICH THE SITE WAS SELECTED FOR THE SYSTEM'S SAMPLING POOL, PURSUANT TO SUBDIVISION (a)(i) OF THIS SUBRULE.

(B) AN IDENTIFICATION OF SAMPLING SITES UTILIZED DURING THE CURRENT MONITORING PERIOD THAT WERE NOT SAMPLED DURING PREVIOUS MONITORING PERIODS, AND AN EXPLANATION WHY SAMPLING SITES HAVE CHANGED.

(iii) THE DEPARTMENT HAS PROVIDED THE RESULTS OF THE NINETIETH PERCENTILE LEAD AND COPPER CALCULATIONS, IN WRITING, TO THE SUPPLIER BEFORE THE END OF THE MONITORING PERIOD.

#### **R 325.10716 Collection and analysis of samples for VOCs.**

Rule 716. (1) Beginning with the initial compliance period, suppliers of water of community and nontransient, noncommunity public water supplies shall collect samples and cause analyses to be made according to the provisions of this rule for volatile organic chemicals to determine compliance with the state drinking water standards listed in R 325.10604b. Each supplier shall monitor at the time designated by the department within each compliance period. The department may increase required monitoring where necessary to detect variations within a water system.

(2) For transient, noncommunity and type III public water supplies, the department may require samples to be collected and analyzed at prescribed frequencies for organic chemicals.

(3) Suppliers of groundwater systems shall take a minimum of 1 sample at every entry point to the distribution system that is representative of each well after treatment. Each sample shall be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

(4) Suppliers of surface water systems or combined surface water and groundwater systems shall take a minimum of 1 sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment. Each sample shall be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

(5) If the system draws water from more than 1 source and the sources are combined before distribution, the ~~supply~~ SYSTEM shall be sampled at an entry point to the distribution system during periods of normal operating conditions when water that is representative of all sources is being used.

(6) SUPPLIERS OF ~~E~~Each community WATER SYSTEM and nontransient, noncommunity water ~~supplier~~ SYSTEM shall take 4 consecutive quarterly samples for each contaminant, except for vinyl chloride, that is listed in R 325.10604b during each compliance period, beginning in the initial compliance period. ~~Monitoring~~

~~data from a single sample rather than 4 quarterly samples that are collected pursuant to R 325.10717a after January 1, 1988, for purposes of initial monitoring compliance may be used to satisfy the initial monitoring requirement of this subrule if the data are generally consistent with the other requirements of this rule. Systems which SUPPLIERS THAT use grandfathered samples and which THAT did not detect any VOCs listed in R 325.10604b, table 6.2, shall, beginning with the initial compliance period, monitor annually in accordance with the provisions of UNDER subrule (7) of this rule.~~

(7) If the initial monitoring has been completed by December 31, 1992, and the supplier did not detect any contaminant ~~that is~~ listed in R 325.10604b, then each groundwater and surface water supplier shall take 1 sample annually beginning with the initial compliance period.

(8) After a supplier has performed annual sampling for not less than 3 years, the department may allow a groundwater supplier that has not previously detected any contaminant that is listed in R 325.10604b to take 1 sample during each compliance period.

(9) SUPPLIERS OF ~~EE~~Each community WATER SYSTEM and nontransient noncommunity groundwater supplier SYSTEM that does not detect, at or above 0.0005 milligrams per liter, a contaminant ~~that is~~ listed in R 325.10604b may apply to the department for a waiver from portions of the requirements of subrules (6) and (7) of this rule after completing the initial monitoring. A waiver shall be effective for not more than 6 years. The department may also issue waivers to small systems for the initial round of 1,2,4 trichlorobenzene monitoring.

(10) The following factors will be evaluated to determine if a waiver will be granted:

(a) Knowledge of previous use, including transport, storage, or disposal, of the contaminant within the watershed or zone of influence of the system. A supplier is not eligible for waiver if it is determined that previous use of the contaminant within the watershed or zone of influence has occurred.

(b) If previous use of the contaminant is unknown or the contaminant has been used previously, then all of the following factors shall be used to determine whether a waiver is granted:

(i) Previous analytical results.

(ii) The proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities or from hazardous and municipal waste landfills and other waste-handling or treatment facilities.

(iii) The environmental persistence and transport of the contaminants.

(iv) The number of persons who are served by the public water system and the proximity of a smaller system to a larger system.

(v) How well the water source is protected against contamination, such as whether it is a surface water or groundwater system. Groundwater supplies shall consider factors such as depth of the well, the type of soil, and wellhead protection. Surface water supplies shall consider watershed protection.

(11) As a condition of a waiver, a groundwater supplier shall take 1 sample at each sampling point during the time the waiver is effective and update its vulnerability assessment considering the factors listed in subrule (10) of this rule. If the department does not reconfirm that the system is nonvulnerable based on this vulnerability assessment within 3 years of the initial determination, then the waiver is invalidated and the supplier is required to sample annually as specified in subrule (7) of this rule.

(12) SUPPLIERS OF ~~EE~~Each community WATER SYSTEM and nontransient noncommunity surface water supplier SYSTEM that does not detect a contaminant listed in R 325.10604b may apply to the department for a waiver from the requirements of subrule (7) of this rule after completing the initial monitoring. SUPPLIERS OF ~~SS~~Systems that do not detect a contaminant listed in R 325.10604b shall be determined by the department to be nonvulnerable based on a vulnerability assessment, considering the factors listed in subrule (10) of this

rule, during each compliance period. Each supplier that receives a waiver shall sample at the frequency specified by the department.

(13) If a contaminant, other than vinyl chloride, ~~that is~~ listed in R 325.10604b is detected at a level ~~that is~~ more than 0.0005 milligrams per liter in any sample, then all of the following provisions apply:

(a) The supplier shall monitor quarterly at each sampling point that resulted in a detection.

(b) The department may decrease the quarterly monitoring requirement specified in subdivision (a) of this subrule if it has determined that the system is reliably and consistently below the MCL. A groundwater supplier shall take not less than 2 quarterly samples and a surface water supplier shall take not less than 4 quarterly samples for this determination.

(c) If the department determines that the ~~supply~~ SYSTEM is reliably and consistently below the ~~me~~MCL, the department may allow the supplier to monitor annually. Suppliers that monitor annually shall monitor during the quarter or quarters that previously yielded the highest analytical result.

(d) Suppliers ~~which~~ THAT conduct 3 consecutive annual samples and ~~which~~ do not detect a contaminant may apply to the department for a waiver as specified in subrule (9) of this rule.

(e) Groundwater suppliers that ~~have~~ detected 1 or more of the following 2-carbon organic compounds shall monitor quarterly for vinyl chloride:

(i) Trichloroethylene.

(ii) Tetrachloroethylene.

(iii) 1,2-dichloroethane.

(iv) 1,1,1-trichloroethane.

(v) cis-1,2-dichloroethylene.

(vi) trans-1,2-dichloroethylene.

(vii) 1,1-dichloroethylene. A vinyl chloride sample shall be taken at each sampling point at which 1 or more of the 2-carbon organic compounds were detected. If the results of the first analysis do not detect vinyl chloride, the department may reduce the quarterly monitoring frequency of vinyl chloride monitoring to 1 sample during each compliance period. Surface water suppliers shall monitor for vinyl chloride as specified by the department.

(14) Suppliers that violate the requirements of R 325.10604b shall monitor quarterly. After not less than 4 consecutive quarterly samples that show the ~~supply~~ SYSTEM is in compliance with ~~the provisions of~~ R 325.10604b and the department determines ~~that~~ the ~~supply~~ SYSTEM is reliably and consistently below the MCL, the supplier may monitor at the frequency and time specified in subrule (13)(c) of this rule.

(15) The department may require a confirmation sample for positive or negative results. If a confirmation sample is required by the department, the result shall be averaged with the first sampling result and the average shall be used for the compliance determination as specified by R 325.10604b. The department may delete results of obvious sampling errors from the calculation.

(16) The department may reduce the total number of samples a supplier shall analyze by allowing the use of compositing when the population served by the system is ~~greater~~ MORE than 3,300 persons. Composite samples from not more than 5 sampling points within a single water system are allowed if the detection limit of the method used for analysis is less than 1/5 of the MCL. Compositing of samples shall be done in the laboratory and analyzed within 14 days of sample collection. All of the following provisions apply to compositing:

(a) If the concentration in the composite sample is more than or equal to 0.0005 milligrams per liter for any contaminant ~~that is~~ listed in R 325.10604b, then a supplier shall take a follow-up sample within 14 days from each sampling point ~~that is~~ included in the composite and shall analyze the sample.

(b) If duplicates of the original sample ~~that is~~ taken from each sampling point used in the composite are available, the supplier may use these instead of resampling. A supplier shall analyze the duplicate and shall report the results to the department within 14 days of collection.

(c) The method for compositing samples specified in the provisions of 40 C.F.R. part 141, paragraph 141.24(f)(14)(iv) and (v), ~~July 1, 1991~~ MAY 4, 2000, is adopted by reference ~~in these rules and is available from the United States Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325, or from the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, 3423 North Martin Luther King Jr. Boulevard, P.O. Box 30630, Lansing, Michigan 48909-8130.~~ The cost at the time of adoption of these rules is \$1.50. THE ADOPTED MATERIAL IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS AT THE ADDRESS IN R 325.10116(2) FOR A COST OF \$47.00 AT THE TIME OF ADOPTION OF THESE RULES. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1).

**R 325.10717b SPECIAL Monitoring for ~~unregulated~~ contaminants.**

Rule 717b. (1) UNREGULATED CONTAMINANT MONITORING REQUIREMENTS ARE CONTAINED IN 40 C.F.R. §141.40. THE DEPARTMENT ADOPTS BY REFERENCE 40 C.F.R. §141.40 (JANUARY 11, 2001). THE ADOPTED MATERIAL IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS AT THE ADDRESS IN R 325.10116(2) FOR A COST OF \$47.00 AT THE TIME OF ADOPTION OF THESE RULES. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1). ~~All of the following provisions apply to monitoring for unregulated contaminants:~~

~~(a) A community or nontransient, noncommunity water supplier shall monitor for unregulated contaminants as set forth in this rule. A community water system or nontransient, noncommunity water supply that serves less than 150 service connections shall be treated as being in compliance with the monitoring requirements if, in the absence of department initiated sampling, the supplier of water notifies the department that the system is available for sampling.~~

~~(b) An owner of a surface water system or a system that has a combination of surface and ground sources shall sample at points in the distribution system representative of each water source or at entry points to the distribution system after any application of treatment.~~

~~(c) An owner of a groundwater system shall sample at points of entry to the distribution system representative of each well after any application of treatment.~~

~~(d) If a system draws water from more than 1 source and the sources are combined before distribution, a supplier shall sample at an entry point to the distribution system during periods of normal operating conditions when water that is representative of all sources is being used.~~

~~(e) Each sample shall be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.~~

~~(f) The department may require confirmation samples.~~

~~(g) A supplier shall perform repeat monitoring for unregulated contaminants at least once every 5 years.~~

~~(h) Monitoring data collected any time after January 1, 1983, may be used to meet the requirements for unregulated contaminant monitoring if the monitoring program was consistent with the requirements of this rule. In addition, the results of EPA's groundwater supply survey may be used in a similar manner for systems supplied by a single well.~~



~~(i) The total number of samples a supplier shall analyze may be reduced by compositing. Composite samples from a maximum of 5 sampling points may be used. A supplier shall perform the compositing of samples in a laboratory and shall analyze the composite samples within 14 days of collection. Compositing is only permitted from sampling points within a single system.~~

~~(j) A supplier shall complete initial monitoring for the unregulated VOCs specified in paragraphs (i) to (xx) of this subdivision according to the provisions of table 7.3. The minimum number of samples that a supplier is required to collect from surface water systems is 1 year of quarterly samples per water source. The minimum number of samples that a supplier is required to collect from groundwater systems is 1 sample per sampling point. Table 7.3 Initial Monitoring System Size (population) Begin not later than More than 10,000 January March Quarter 1988 3,300 to 10,000 January March Quarter 1989 Less than 3,300 January March Quarter 1991 Paragraphs (i) to (xx) of this subdivision read as follows:~~

- ~~(i) Chloroform.~~
- ~~(ii) Bromodichloromethane.~~
- ~~(iii) Chlorodibromomethane.~~
- ~~(iv) Bromoform.~~
- ~~(v) dibromomethane.~~
- ~~(vi) m dichlorobenzene.~~
- ~~(vii) 1,1 Dichloropropene.~~
- ~~(viii) 1,1 Dichloroethane.~~
- ~~(ix) 1,1,2,2 Tetrachloroethane.~~
- ~~(x) 1,3 Dichloropropane.~~
- ~~(xi) Chloromethane.~~
- ~~(xii) Bromomethane.~~
- ~~(xiii) 1,2,3 Trichloropropane.~~
- ~~(xiv) 1,1,1,2 Tetrachloroethane.~~
- ~~(xv) Chloroethane.~~
- ~~(xvi) 2,2 Dichloropropane.~~
- ~~(xvii) o-chlorotoluene.~~
- ~~(xviii) p-chlorotoluene.~~
- ~~(xix) Bromobenzene.~~
- ~~(xx) 1,3 Dichloropropene.~~

~~(k) Monitoring for the unregulated contaminants specified in this subdivision, shall be conducted by a supplier according to the following provisions, shall be completed by the supplier by December 31, 1995, and shall be reported by the supplier to the department:~~

~~(i) Each community and nontransient, noncommunity water supplier shall take 4 consecutive quarterly samples at each sampling point for each organic contaminant listed in subparagraphs (A) to (J) of this paragraph:~~

- ~~(A) Aldrin.~~
- ~~(B) Butachlor.~~
- ~~(C) Carbaryl.~~
- ~~(D) Dicamba.~~
- ~~(E) Dieldrin.~~
- ~~(F) 3-Hydroxycarbofuran.~~
- ~~(G) Methomyl.~~
- ~~(H) Metolachlor.~~
- ~~(I) Metribuzin.~~

(J) Propachlor.

~~(ii) Each community and nontransient, noncommunity water supplier shall take 1 sample at each sampling point for sulfate.~~

~~(iii) The department may grant a waiver from the requirements of paragraph (i) of this subdivision based on the criteria specified in R 325.10717(9). The department may grant a waiver from the requirements of paragraph (ii) of this subdivision if previous analytical results indicate contamination would not occur and if the results were collected after January 1, 1990.~~

~~(l) Supplier monitoring for the following contaminants may be required by the department based on the vulnerability of the water supply to these contaminants:~~

~~(i) 1,2,4 Trimethylbenzene.~~

~~(ii) 1,2,3 Trichlorobenzene.~~

~~(iii) N Propylbenzene.~~

~~(iv) N butylbenzene.~~

~~(v) Naphthalene.~~

~~(vi) Hexachlorobutadiene.~~

~~(vii) 1,3,5 Trimethylbenzene.~~

~~(viii) P Isopropyltoluene.~~

~~(ix) Isopropylbenzene.~~

~~(x) Tert Butylbenzene.~~

~~(xi) Sec Butylbenzene.~~

~~(xii) Fluorotrichloromethane.~~

~~(xiii) Dichlorodifluoromethane.~~

~~(xiv) Bromochloromethane.~~

~~(m)~~ (2) ALL OF THE FOLLOWING PROVISIONS APPLY TO SODIUM MONITORING:

(a) A supplier of water for a community ~~public~~ water system shall collect and analyze 1 sample per plant at the entry point to the distribution system to determine sodium concentration levels. Samples shall be collected and analyzed annually for a system that utilizes surface water sources in whole or in part and not less than once every 3 years for a system that utilizes solely ground water sources. ~~†~~The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may be considered 1 treatment plant for determining the minimum number of samples.

(b) ~~†~~The supplier of water shall report to the department the results of the analyses for sodium ~~within the first 10 days of the month following the month in which the sample results were received or within the first 10 days following the end of the required monitoring period, whichever is sooner~~ AS REQUIRED IN R 325.10734(1). ~~if~~ IF THE DEPARTMENT REQUIRES more than annual sampling ~~is required~~, then the supplier shall report the average sodium concentration ~~within 10 days of the month following the month in which the analytical results of the last sample used for the annual average were received~~ AS REQUIRED IN R 325.10734(1) AFTER TAKING THE LAST SAMPLE USED FOR THE ANNUAL AVERAGE.

(c) THE SUPPLIER SHALL NOTIFY THE LOCAL HEALTH DEPARTMENT OF THE SODIUM LEVELS WITHIN 3 MONTHS IN WRITING. THE SUPPLIER SHALL SEND A COPY OF THE WRITTEN NOTICE TO THE STATE WITHIN 10 DAYS OF ITS ISSUANCE. THE SUPPLIER IS NOT REQUIRED TO SEND WRITTEN NOTICE TO THE LOCAL HEALTH DEPARTMENT WHEN THE DEPARTMENT PROVIDES THE NOTICE INSTEAD OF THE SUPPLIER.

~~(n)~~ (3) An analysis for a contaminant OR PARAMETER listed in this rule shall be conducted only by laboratories certified TO CONDUCT THAT ANALYSIS under part 27 of these rules OR APPROVED BY THE UNITED STATES EPA.

**R 325.10734 Required reporting to ~~division~~ THE DEPARTMENT.**

Rule 734. (1) ~~Except where a shorter reporting period is~~ UNLESS OTHERWISE specified in this part, a supplier of water shall report, to the ~~division~~, within 40 days after a measurement or analysis, the results of a measurement or analysis that is required by this part DEPARTMENT THE RESULTS OF A MEASUREMENT OR ANALYSIS REQUIRED BY THIS PART WITHIN THE FIRST 10 DAYS OF THE MONTH FOLLOWING THE MONTH IN WHICH THE RESULTS ARE RECEIVED, OR WITHIN THE FIRST 10 DAYS FOLLOWING THE END OF THE REQUIRED MONITORING PERIOD, WHICHEVER IS SOONER.

(2) Unless otherwise specified in this part, a supplier of water shall report, to the ~~division~~ DEPARTMENT, within 48 hours, failing to comply with an MCL, including DRINKING WATER STANDARD OR DRINKING WATER REQUIREMENT, INCLUDING failing to comply with a monitoring requirement, UNDER as prescribed by this part.

(3) A supplier of water shall not be required to report analytical results to the ~~division~~ DEPARTMENT in cases where the department laboratory performs the analysis and reports the results to the ~~division~~ DEPARTMENT.

(4) A public water supply SYSTEM, upon discovering that a waterborne disease outbreak that is potentially attributable to that water system has occurred, shall report that occurrence to the department as soon as possible, but not later than the end of the next business day.

**R 325.10736 ~~Schedule of fees~~ RESCINDED.**

Rule 736. ~~The supplier of water shall collect and analyze water samples or have them collected and analyzed as specified in this part. If the supplier of water fails to meet this responsibility, the department shall collect and analyze the water samples routinely as specified in this part and charge the supplier for these services according to the fee schedule established in table 2 in R 325.10738.~~

**R 325.10738 ~~Table 2~~ RESCINDED.**

Rule 738. Table 2 reads as follows:

Type of sample collected and analyzed or measured	Fee per sample when collected by the department
Bacteriologic	\$35.00
Turbidity	\$35.00
Others	No fee

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**PROPOSED ADMINISTRATIVE RULES**

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**ORR # 2001-023**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION**

**SUPPLYING WATER TO THE PUBLIC**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 5, 7, 14, and 19 of 1976 PA 399, MCL 325.1005, 325.1007, 325.1014, and 325.1019, and Executive Order No. 1996-1, MCL 330.3101)

R 325.10103, R 325.10105, R 325.10106, R 325.10107, R 325.10108, R 325.10109, and R 325.10112 of the Michigan Administrative Code are amended, and R 325.10116 is added to the Code as follows:

**PART 1. GENERAL PROVISIONS**

**R 325.10103 Definitions; C.**

Rule 103. As used in these rules:

- (a) "C" in "CT calculation" means the residual disinfectant concentration measured in milligrams per liter in a representative sample of water.
- (b) "Casing" means a durable pipe that is placed in a well to prevent the soil from caving in and to seal off surface drainage or undesirable water, gases, contaminants, or other fluids and prevent them from entering the well and the aquifer supplying the well.
- (c) "Casing vent" means an outlet at the upper terminal of a well casing which provides atmospheric pressure in the well and which allows the escape of gases when present.
- (d) "Certificate" means a document that is issued by the department to a person who meets the qualification requirements for operating a waterworks system or a portion of the waterworks system.
- (e) "Certified operator" means an operator who holds a certificate.
- (f) "Community supply" OR "COMMUNITY WATER SUPPLY" OR "COMMUNITY WATER SYSTEM" means a public water supply that provides year-round service to not fewer than 15 living units or ~~which~~ THAT regularly provides year-round service to not fewer than 25 residents.
- (g) "Complete treatment system" means a treatment system that employs disinfection, coagulation, sedimentation, and filtration units that function collectively to effect control over water quality characteristics to produce a finished water that meets the requirements of the state drinking water standards.
- (h) "Compliance cycle" means the 9-year calendar year cycle during which public water systems are required to monitor. Each compliance cycle consists of 3 3-year compliance periods. The first calendar year cycle begins

January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019.

(i) "Compliance period" means a 3-year calendar year period within a compliance cycle. Each compliance cycle has 3 3-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001.

(j) "Confluent growth" means a continuous bacterial growth that covers the entire filtration area of a membrane filter, or portion of a filtration area, in which bacterial colonies are not discrete.

(k) "Construction" means the erection, installation, or alteration of a waterworks system, or any portion of a waterworks system, that affects any of the following:

(i) Flow.

(ii) Capacity.

(iii) System service area.

(iv) Source.

(v) Treatment.

(vi) Reliability.

(l) "Contested cases" means matters that are within the definition of a contested case as set forth by section 3(3) of ~~Act No. 306 of the Public Acts of 1969, as amended, being § 1969 PA 306, MCL 24.203(3) of the Michigan Compiled Laws~~, and matters of issue that involve any of the following which are issued by the director, the department, or the division pursuant to the act and these rules:

(i) Orders.

(ii) Exemptions.

(iii) Variances.

(iv) Stipulations.

(v) Consent agreements.

(vi) Permits.

(vii) Licenses.

(viii) Certificates.

(m) "Contested case hearing" means a hearing that is initiated by the department or a person ~~pursuant to the provisions of UNDER chapters 4, 5, and 6 of Act No. 306 of the Public Acts of 1969, as amended, being §§ 1969 PA 306, MCL 24.271 to 24.306 of the Michigan Compiled Laws~~.

(n) "Contaminant" means a physical, chemical, biological, or radiological substance or matter in water.

(o) "Contingency plan" means a plan for use by a supplier of water in the event of an emergency.

(p) "Corrosion inhibitor" means a substance that is capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

(q) "Cross connection" means a connection or arrangement of piping or appurtenances through which a backflow could occur.

(r) "CT calculation" means the product of residual disinfectant concentration (C) in milligrams per liter determined at or before the first customer and the corresponding disinfectant contact time (T) in minutes; C\*T is calculated at rated capacity. The total CT shall be the sum of individual CTs of each disinfectant sequence.

(s) "Customer service connection" means the pipe between a water main and customer site piping or building plumbing system.

(t) "Customer site piping" means an underground piping system owned or controlled by the customer that conveys water from the customer service connection to building plumbing systems and other points of use on

lands owned or controlled by the customer. Customer site piping does not include any system that incorporates treatment to protect public health.

**R 325.10105 Definitions; F to L.**

Rule 105. As used in these rules:

- (a) "Federal act" means the safe drinking water act of 1974, 42 U.S.C. S300f et seq. and the provisions of 40 C.F.R. part 35, §35.600 to §35.630; 40 C.F.R. part 141; and 40 C.F.R. part 142 promulgated by EPA (1999) under the federal act.
- (b) "Finished water" means water that is ready for distribution to the customers or users of a public water supply.
- (c) "Firm capacity," as applied to wells, pumping stations, or units of treatment systems, means the production capability of each respective part of the waterworks system with the largest well, pump, or treatment unit out of service.
- (d) "First draw sample" means a 1-liter sample of tap water which has been standing in plumbing pipes for not less than 6 hours and which is collected without flushing the tap.
- (e) "Gravity storage tank" means an elevated or ground level finished water storage reservoir that, during normal use, operates under atmospheric pressure.
- (f) "Ground water" or "groundwater" means the water in the zone of saturation in which all of the pore spaces of the subsurface material are filled with water.
- (g) "Ground water under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid changes in water characteristics such as turbidity, temperature, conductivity or pH that closely correlate to climatological or surface water conditions.
- (h) "Grout" means neat cement, concrete, or other sealing material which is approved by the department and which is used to seal a well casing in a well.
- (i) "Imminent hazard" means that in the judgment of the director there is a violation, or a condition that may cause a violation, of the state drinking water standards at a public water supply requiring immediate action to prevent endangering the health of people.
- (j) "Initial compliance period" means January 1993 to December 1995. For a system that has less than 150 service connections, the initial compliance period is January 1996 to December 1998 for contaminants listed in part 6 of these rules that have an effective date of January 17, 1994.
- (k) "Large water supply;" OR "LARGE WATER SYSTEM," for the purpose of lead and copper control, means a PUBLIC water supply that serves more than 50,000 persons.
- (l) "Lead service line" means a service line which is made of lead and which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting that is connected to the lead line.
- (m) "License" means the license that is issued by the department to a water hauler, or for a water hauling tank, pursuant to section 18 of the act.
- (n) "Limited treatment system" means a treatment system, including, but not limited to, disinfection, fluoridation, iron removal, ion exchange treatment, phosphate application, or filtration other than complete treatment.
- (o) "Living unit" means a house, apartment, or other domicile occupied or intended to be occupied on a day-to-day basis by an individual, family group, or equivalent.

**R 325.10106 Definitions; M to O.**

Rule 106. As used in these rules:

- (a) "Maximum TTHM potential" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after 7 days at a temperature of 25 degrees Centigrade or above.
- (b) "MCL" means the maximum permissible level of a contaminant in water that is delivered to any user of a public water supply.
- (c) "MDL" means method detection limit for analytical work done to determine compliance with the act.
- (d) "Medium-size water system;" OR "MEDIUM-SIZE WATER SUPPLY," for the purpose of lead and copper control, means a PUBLIC water supply that serves more than 3,300 persons and ~~less~~ FEWER than or equal to 50,000 persons.
- (e) "Monitoring requirement" means a schedule, frequency, and location for the sampling and analysis of water that is required by the provisions of part 7 of these rules to determine whether a public water supply is in compliance with the state drinking water standards.
- (f) "Near the first service connection" means at 1 of the 20% of all service connections in the entire system that are nearest the water supply treatment facility, as measured by water transport time within the distribution system.
- (g) "Noncommunity supply" OR "NONCOMMUNITY WATER SUPPLY" OR "NONCOMMUNITY WATER SYSTEM" means a public water supply that is not a community supply, but that has not fewer than 15 service connections or that serves not fewer than 25 individuals on an average daily basis for not less than 60 days per year.
- (h) "Nontransient noncommunity water supply" or "NONTRANSIENT NONCOMMUNITY WATER SYSTEM" OR "NTNC" means a noncommunity supply that serves not fewer than 25 of the same individuals on an average daily basis over 6 months per year. This definition includes PUBLIC water supplies in places of employment, schools, and day-care centers.
- (i) "NTU" means nephelometric turbidity unit.
- (j) "One hundred-year drought elevation" means the minimum projected water surface elevation that would occur at a location once in a period of 100 years.
- (k) "One hundred-year flood elevation" means the maximum projected water surface elevation that would occur at a location once in a period of 100 years.
- (l) "Operating shift" means that period of time during which operator decisions that affect public health are necessary for proper operation of the waterworks system.
- (m) "Operator" means an individual who operates a waterworks system or a portion of a waterworks system.
- (n) "Operator in charge" means a certified operator who is designated by the owner of a public water supply as the responsible individual in overall charge of a waterworks system, or portion of a waterworks system, who makes decisions regarding the daily operational activities of the system that will directly impact the quality or quantity of drinking water.
- (o) "Optimal corrosion control treatment," for the purpose of lead and copper control, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while ~~i~~Ensuring that the treatment does not cause the PUBLIC water supply to be in violation of any national primary drinking water regulations.

**R 325.10107 Definitions; P, R.**

Rule 107. As used in these rules:

- (a) "Permit" means a public water supply construction permit that is issued to a supplier of water by the department under the provisions of section 4 of the act.

- (b) "Person" means an individual, partnership, copartnership, cooperative, firm, company, public or private association or corporation, political subdivision, agency of the state, agency of the federal government, trust, estate, joint structure company, or any other legal entity, or their legal representative, agent, or assignee.
- (c) "Pitless adapter" means a device or assembly of parts which permits water to pass through the wall of a well casing or extension of a well casing and which provides access to the well and to the parts of the ~~water~~ system within the well in a manner that prevents the entrance of contaminants into the well and the water produced.
- (d) "Plans and specifications" means drawings, data, and a true description or representation of an entire waterworks system or parts of the system as it exists or is to be constructed, and a statement of how a waterworks system shall be operated.
- (e) "Political subdivision" means a city, village, township, charter township, county, district, authority, or portion or combination of any of the entities specified in this subdivision.
- (f) "PQL" means the practical quantitation levels. The PQL is the lowest concentration that can be reliably achieved by well-operated laboratories within specified limits of precision and accuracy during routine laboratory operating conditions.
- (g) "Production well" means a well that has been approved for use for a public water supply in accordance with the provisions of part 8 of these rules.
- (h) "Public hearing" means a hearing which is conducted by the director of the department on matters relating to the functions and responsibilities of the division and which seeks public input relevant to such functions and responsibilities.
- (i) "Public water supply" OR "PUBLIC WATER SYSTEM" means a waterworks system that provides water for drinking or household purposes to persons other than the supplier of the water, and does not include either of the following:
- (i) A waterworks system that supplies water to only 1 living unit.
  - (ii) A waterworks system that consists solely of customer site piping.
- (j) "Pumping water level" means the distance measured from an established datum at or above ground level to the water surface in a well being pumped at a known rate for a known period of time.
- (k) "Rated treatment capacity" is one or any combination of the following capacities when water treatment is practiced:
- (i) Rated capacity from an approved surface water supply, ground water supply under the direct influence of surface water, or complete treatment system as contained in R 325.11006.
  - (ii) Firm capacity from an approved ground water supply where firm capacity means the production capability of each respective component of the waterworks system with the largest well, pump, or treatment unit out of service.
  - (iii) Available capacity obtained under contract and capable of delivery from another approved public water supply.
- (l) "Raw water" means water that is obtained from a source by a public water supply before a supplier of water provides any treatment or distributes the water to its customers.
- (m) "Regional administrator" means the EPA region V administrator.
- (n) "Regulated VOCs" means a group of volatile organic chemicals for which state drinking water standards have been promulgated, but does not include total trihalomethanes.
- (o) "Removed from service" means physically disconnected from the waterworks system in a manner that would prevent the inadvertent use of the well and would require specific authorization from the supplier of water to reconnect.
- (p) "Repeat sample" means a sample that is collected and analyzed in response to a previous coliform-positive sample.



- (q) "Resident" means an individual who owns or occupies a living unit.
- (r) "Routine sample" means a water sample that is collected and analyzed to meet the monitoring requirements for total coliform, as outlined in the written sampling plan.

**R 325.10108 Definitions; S.**

Rule 108. As used in these rules:

- (a) "Sanitary survey" means an evaluation, including an on-site review of a waterworks system or a portion thereof, for existing or potential health hazards, including sampling, design, operation, and maintenance, for the purpose of determining the ability of the public water supply to produce, treat, and distribute adequate quantities of water meeting state drinking water standards.
- (b) "Service connection" means a direct connection from a distribution water main to a living unit or other site to provide water for drinking or household purposes.
- (c) "Service line sample" means a 1-liter sample of water that has been standing for not less than 6 hours in a service line.
- (d) "Shift operator" means a certified operator, other than the operator in charge, who is in charge of an operating shift of a waterworks system.
- (e) "Single-family structure," for the purpose of lead and copper control, means a building which is constructed as a single-family residence and which is currently used as either a residence or a place of business.
- (f) "Small water supply;" OR "SMALL WATER SYSTEM," for the purpose of lead and copper control, means a PUBLIC water supply that serves ~~less~~ FEWER than 3,301 persons.
- (g) "SOC" means synthetic organic chemical.
- (h) "Source" means the point of origin of raw water or means treated water that is purchased or obtained by a public water supply, by a water hauler, or by a person who provides bottled water.
- (i) "State drinking water standards" means quality standards setting limits for contaminant levels or establishing treatment techniques to meet standards necessary to protect the public health.
- (j) "Static water level" means the distance measured from an established datum at or above ground level to the water surface in a well which is not being pumped, which is not under the influence of pumping, and which is not flowing under artesian pressure.
- (k) "Suction line" means a pipe or line that is connected to the inlet side of a pump or pumping equipment.
- (l) "Supplier of water" or "supplier" means a person who owns or operates a public water supply, and includes a water hauler.
- (m) "Surface water" means water that rests or flows on the surface of the ground.
- (n) "System with a single-service connection" means a public water supply that supplies drinking water to consumers through a single-service line.

**R 325.10109 Definitions; T to Y.**

Rule 109. As used in these rules:

- (a) "Test well" means a well that is drilled on a site that has not been approved for use as a production well in accordance with the provisions of part 8 of these rules.
- (b) "Too numerous to count" means that the total number of bacterial colonies is more than 200 on a 47-millimeter diameter membrane filter.
- (c) "Total trihalomethanes" or "TTHM" means the sum of the concentration in milligrams per liter, rounded to 2 significant figures, of all of the following:
  - (i) The trihalomethane compounds.
  - (ii) Trichloromethane (chloroform).

- (iii) Dibromochloromethane.
- (iv) Bromodichloromethane.
- (v) Tribromomethane (bromoform).
- (d) "Transient noncommunity water supply" OR "TRANSIENT NONCOMMUNITY WATER SYSTEM" means a noncommunity supply that does not meet the definition of nontransient noncommunity water supply in R 325.10106(h).
- (e) "Treatment system" means a facility or structure and associated appurtenances installed for the purpose of treating drinking water before delivery to a distribution system.
- (f) "Treatment technique" means a minimum treatment requirement or a necessary methodology or technology that is employed by a supplier of water for the control of the chemical, physical, biological, or radiological characteristics of the public water supply.
- (g) "Trihalomethane" or "THM" means 1 of the family of organic compounds named as derivatives of methane, wherein 3 of the 4 hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.
- (h) "Unregulated contaminants" means a group of contaminants for which state drinking water standards have not been promulgated, but for which monitoring requirements apply.
- (i) "Variance" means an order, with appropriate conditions and compliance schedules and requirements, which is issued by the director to a supplier of water and which permits a public water supply to be in noncompliance with a state drinking water standard, including a specified treatment technique.
- (j) "VOC" means volatile organic chemical.
- (k) "Water hauler" means a person engaged in bulk vehicular transportation of water to other than the water hauler's own household which is intended for use or used for drinking or household purposes. Excluded from this definition are those persons providing water solely for employee use.
- (l) "Water transportation tank" means a tank that is associated with an over-the-road vehicle that is used for the bulk transport of drinking water.
- (m) "Waterworks system" or "system" means a system of pipes and structures through which water is obtained and distributed, including, but not limited to: wells and well structures, intakes and cribs, pumping stations, treatment plants, storage tanks, pipelines and appurtenances, or a combination of the items specified in this subdivision, actually used or intended for use for the purpose of furnishing water for drinking or household purposes.
- (n) "Year-round service" means the ability of a supplier of water to provide drinking water on a continuous basis to a living unit or facility.

### **R 325.10112 Adoption by reference.**

Rule 112. The department ~~incorporates by reference, and adopts BY REFERENCE as a part of these rules,~~ the publication entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NCRP Report 22, 1963, as referred to in parts 1 and 6 of these rules. ~~Copies of the adopted matter are available for inspection at the offices of the department at 184 U.S. Highway 41 East, Negaunee, and 3423 North Martin Luther King Jr. Blvd., Lansing. Copies may be purchased~~ THE ADOPTED MATERIAL IS AVAILABLE from the National Council on Radiation Protection AT THE ADDRESS IN R 325.10116(3) FOR A COST OF \$20.00, ~~7910 Woodmont Avenue, Suite 800, Bethesda, Maryland 20814, at a cost~~ at the time of adoption of these rules of \$20.00. THE ADOPTED MATERIAL IS AVAILABLE FOR INSPECTION, OR COPIES ARE AVAILABLE AT NO COST FROM THE OFFICES OF THE DEPARTMENT AT THE ADDRESS IN R 325.10116(1).

### **R 325.10116 ADDRESSES**

RULE 116. THE FOLLOWING ARE ADDRESSES AND CONTACT INFORMATION OF THE DEPARTMENT AND OTHER ORGANIZATIONS REFERED TO IN THESE RULES.

(1) DEPARTMENT OF ENVIRONMENTAL QUALITY, DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION, 3423 NORTH MARTIN LUTHER KING JR. BLVD, POST OFFICE BOX 30630, LANSING, MI 48909-8130, TELEPHONE 517-335-9216. INTERNET ADDRESS: [HTTP://WWW.DEQ.STATE.MI.US](http://WWW.DEQ.STATE.MI.US).

(2) SUPERINTENDENT OF DOCUMENTS, UNITED STATES GOVERNMENT PRINTING OFFICE, POST OFFICE BOX 371954, PITTSBURGH, PA 15250-7954, TELEPHONE 202-512-1800. INTERNET ADDRESS: [HTTP://WWW.ACCESS.GPO.GOV/SU\\_DOCS](http://WWW.ACCESS.GPO.GOV/SU_DOCS).

(3) NATIONAL COUNCIL ON RADIATION PROTECTION, 7910 WOODMONT AVENUE, SUITE 800, BETHESDA, MARYLAND 20814, TELEPHONE 301-657-2652. INTERNET ADDRESS: [HTTP://WWW.NCRP.COM](http://WWW.NCRP.COM).

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PROPOSED ADMINISTRATIVE RULES

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**ORR # 2001-024**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION**

**SUPPLYING WATER TO THE PUBLIC**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 5, 7, 14, and 19 of 1976 PA 399, MCL 325.1005, 325.1007, 325.1014, and 325.1019, and Executive Order No. 1996-1, MCL 330.3101)

R 325.11506 of the Michigan Administrative Code is amended as follows:

**PART 15. OPERATION REPORTS AND RECORDKEEPING**

**R 325.11506 Retention of records.**

Rule 1506. (1) A supplier of water of a ~~type I or type II public water supply~~ COMMUNITY WATER SYSTEM OR A NONCOMMUNITY WATER SYSTEM shall retain on its premises, or at a convenient location near its premises, all of the following records:

(a) Records of bacteriological analyses ~~that are required pursuant to the provisions of~~ UNDER part 7 of these rules shall be kept for not less than 5 years.

(b) Records of chemical analyses ~~that are required pursuant to the provisions of~~ UNDER part 7 of these rules shall be kept for not less than 10 years UNLESS OTHERWISE INDICATED IN THIS RULE.

(c) Records of turbidity analyses ~~that are required pursuant to the provisions of~~ UNDER part 7 of these rules shall be kept for not less than 5 years.

(d) Records of radiological analyses ~~that are required pursuant to the provisions of~~ UNDER part 7 of these rules shall be kept for not less than 10 years.

(e) Original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, department determinations, and any other information ~~that is required pursuant to the provisions of~~ UNDER R 325.10604f(2) to ~~(4)~~ (5), R 325.10410, R 325.10710a, R 325.10710b, R 325.10710c, OR R 325.10710d, shall be retained for not less than 12 years.

(2) Actual laboratory reports for chemical, bacteriological, turbidity, and radiological analyses shall be kept; however, the analyses data may be transferred to tabular summaries if all of the following information is included:

(a) The date, place, and time of sampling and the name of the person who collected the sample.

(b) Identification of the sample as a routine distribution system sample, check sample, raw or treated water sample, or other special purpose sample.

(c) The date of the analysis.

- (d) The laboratory and the person who was responsible for performing the analysis.
  - (e) The analytical technique or method used.
  - (f) The results of the analysis.
- (3) Records of action taken by the supplier to correct violations of the state drinking water standards shall be kept for not less than 3 years after the last action taken with respect to the particular violation.
- (4) Copies of any written reports, summaries, or communications ~~which~~ relateD to sanitary surveys of the public water supply and ~~which were~~ conducted by the SUPPLIER OF THE public water supply SYSTEM itself, by a private consultant, by the division, or by ~~any~~ local, state, or federal agency shall be kept for not less than 10 years after completion of the sanitary survey involved.
- (5) Records that involve a variance or an exemption ~~that was~~ granted to a public water supply shall be kept for not less than 5 years after the expiration date of the variance or exemption.
- (6) Records that involve any emergency or public notification regarding a public water supply shall be kept for not less than 3 years after the emergency or public notification.

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NOTICE OF PUBLIC HEARING

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**ORR # 2001-004, 005, 006, 023, 024**

**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION**

The Michigan Department of Environmental Quality (DEQ), Drinking Water and Radiological Protection Division (DWRPD), will conduct a public hearing on proposed administrative rules promulgated pursuant to Sections 5, 7, 14, and 19 of the Michigan Safe Drinking Water Act, 1976 PA 399, as amended (Act 399); R 325.10103, R 325.10105, R 325.10106, R 325.10107, R 325.10108, R 325.10109, R 325.10112, R 325.10116, R 325.10410, R 325.10604c, R 325.10604f, R 325.10705, R 325.10710, R 325.10710a, R 325.10710d, R 325.10716, R 325.10717b, R 325.10736, R 325.10738, and R 325.11506. These amendments make several minor revisions to the rules to eliminate unnecessary requirements, to streamline and reduce the reporting burden without jeopardizing the level of public health protection or protection of the environment, to clarify requirements, and to improve implementation of the rules. The amended rules do not affect the lead or copper action levels or the basic regulatory requirements.

The public hearing will be held on February 7, 2002, at 1:00 p.m., in the Ottawa Conference Room 4, Lower Level, Ottawa Building, 611 West Ottawa Street, Lansing, Michigan.

Copies of the proposed rules (ORR Numbers 2001-004EQ, 2001-005EQ, 2001-006EQ, 2001-023EQ, and 2001-024EQ) can be downloaded from the Internet from the Field Operations Section home page at [www.deq.state.mi.us/dwr/FOS/FOSHomePAGE.htm](http://www.deq.state.mi.us/dwr/FOS/FOSHomePAGE.htm). These rules can also be downloaded from the Internet through the Office of Regulatory Reform at <http://www.state.mi.us/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Field Operations Section  
Drinking Water and Radiological Protection Division  
Michigan Department of Environmental Quality  
P.O. Box 30630  
Lansing, Michigan 48909-8130  
Phone: 517-241-1318  
Fax: 517-241-1328  
E-Mail: [reckd@michigan.gov](mailto:reckd@michigan.gov)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the above address. Written comments must be received by February 8, 2002.

Persons needing accommodations for effective participation in the meeting should contact the DWRPD at 517-241-1318 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Sections 5 and 16 of Act 399 and Executive Order 1996-1. These rules will become effective seven days after filing with the Secretary of State.

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Flint C. Watt, P.E., Chief  
Drinking Water and Radiological Protection Division

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PROPOSED ADMINISTRATIVE RULES

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**ORR # 2001-039**

**DEPARTMENT OF NATURAL RESOURCES**

**WILDLIFE DIVISION**

**ENDANGERED AND THREATENED SPECIES**

Filed with the secretary of state on \_\_\_\_\_  
This rule takes effect 7 days after filing with the secretary of state

(By authority conferred on the department of natural resources by section 36503 of 1994 PA 451, MCL 324.36503)

R 299.1027 of the Michigan Administrative Code is amended as follows:

**R 299.1027 Mammals.**

Rule 7. (1) The following species of mammals are included on the state list of endangered species:

- |                                      |              |
|--------------------------------------|--------------|
| <del>(a) Canis lupus Linnaeus</del>  | Gray wolf    |
| (bA) Felis concolor Linnaeus         | Cougar       |
| (cB) Lynx canadensis Kerr            | Lynx         |
| (dC) Microtus ochrogaster (Wagner)   | Prairie vole |
| (eD) Myotis sodalis Miller and Allen | Indiana bat  |

(2) The following species of mammals are included on the state list of threatened species:

- |                           |             |
|---------------------------|-------------|
| (A) CANIS LUPUS LINNAEUS  | GRAY WOLF   |
| (B) Cryptotis parva (Say) | Least shrew |



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NOTICE OF PUBLIC HEARING

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**ORR # 2001-039**

**Department of Natural Resources**

**Wildlife Division**

Proposed Amendments to the Administrative Rules on Michigan's Endangered and Threatened Species

By authority conferred on the Director of the Department of Natural Resources by Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, being sections 324.6501 through 324.6507 of the Michigan Compiled Laws, public hearings have been scheduled to obtain public comments on the proposed amendments to the Administrative Rules entitled, "Endangered and Threatened Species." The only proposed change is to reclassify the gray wolf (*Canis lupus*) from endangered to threatened. No other changes to the list are proposed at this time.

Two public hearings will be held:

Tuesday, February 12, 2002, 6:30 to 8:30 PM  
Ramada Inn  
412 West Washington Street  
Marquette, MI 49855

Thursday, February 14, 2002, 6:30 to 8:30 PM  
Midway Best Western Hotel  
7711 West Saginaw Highway  
Lansing, MI 48917

All interested persons are invited to attend and offer comments orally or in writing. Individuals desiring to present oral comments are asked, if possible, to provide written copies of their testimony and supporting data. Comment forms also will be available at the hearing. Those unable to attend the public hearing may submit written comments until March 8, 2002 via email to [wolfcomment@michigan.gov](mailto:wolfcomment@michigan.gov) or via regular mail to:

Wolf Comments  
Wildlife Division  
P.O. Box 30444  
Lansing, MI 48909

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**OPINIONS OF THE  
ATTORNEY GENERAL**

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*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

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(j) Attorney general opinions. ”

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OPINIONS OF THE ATTORNEY GENERAL

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**OPINIONS OF THE ATTORNEY GENERAL**

COUNTIES: County's authority to adopt countywide noise control ordinance

MUNICIPALITIES:

A county board of commissioners in a noncharter county lacks authority to adopt a countywide noise control ordinance.

Opinion No. 7096

December 26, 2001

Mr. Jeffrey C. Middleton  
St. Joseph County Prosecuting Attorney  
P.O. Box 250  
Centreville, MI 49032-0250

You have asked whether a county board of commissioners in a noncharter county is authorized to adopt a countywide noise control regulation ordinance.

Your request indicates that a county board of commissioners is considering adopting a countywide ordinance prohibiting “any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the county.” The proposed ordinance would also list specific violations, including the operation of pneumatic hammers during the period between 10 p.m. and 6 a.m. Violation of the proposed ordinance would be a misdemeanor, punishable by a fine of up to \$500, or imprisonment of up to 90 days, or both.

Counties and other local units of government have only such powers as are granted them by law. *Mosier v Wayne County Bd of Auditors*, 295 Mich 27, 29; 294 NW 85 (1940); *Hanslovsky v Leland Twp*, 281 Mich 652; 275 NW 720 (1937). Michigan statutes authorize specific county ordinances – for example, zoning ordinances (MCL 125.201 *et seq*), animal control ordinances (MCL 287.289a), and noxious weed

ordinances. MCL 247.70. Beyond such instances of express statutory authorization, noncharter counties possess only the authority to adopt ordinances pursuant to section 11(j) of the County Boards of Commissioners Act (County Act), 1851 PA 156, MCL 46.1 *et seq*, which provides, in relevant part, as follows:

A county board of commissioners, at a lawfully held meeting, may do 1 or more of the following:

\* \* \*

(j) By majority vote of the members of the county board of commissioners elected and serving, *pass ordinances that relate to county affairs* and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county . . . . [Emphasis added.]

County ordinances must relate to, and are restricted to, affairs of the county and may not interfere with the local affairs of cities, villages, or townships. OAG, 1989-1990, No 6665, pp 401, 403 (November 15, 1990); OAG, 1969-1970, No 4696, pp 197, 200 (November 25, 1970); OAG, 1928-1930, p 477 (July 13, 1929); 1 OAG 1957, No 2973, p 168 (April 12, 1957).

Several Attorney General opinions have concluded that the regulation of various activities exceeded the authority of a county board of commissioners, including a county's regulation of "loud speaking equipment" on automobiles operating on county roads, OAG, 1941-1942, No 22046, p 448 (December 16, 1941); the handling of foodstuffs and beverages, OAG, 1943-1944, No 24970, p 163 (November 24, 1942); Sunday beer sales, OAG 1943-1944, 0-402, p 320 (March 16, 1943); the operation of motor boats, OAG, 1943-1944, No 0-1394, p 563 (October 18, 1943); loitering by minors where liquor is sold, OAG, 1945-1946, No 0-4471, p 639 (March 15, 1946); and Sunday sales of personal property, 1 OAG, 1957, No 2973, p 168 (April 12, 1957).

OAG, No 4696, *supra*, at 200, concluded that noncharter counties would be interfering with cities, villages, and townships by adopting an air pollution control ordinance where cities, villages, and townships already had the power to adopt such ordinances. Similarly, OAG, 1971-1972, No 4741, p 82 (April 3, 1972), concluded that a county lacked authority to adopt an ordinance prohibiting the discharge of firearms within the county.

The proposed countywide noise control ordinance described in your request, if adopted, would apply beyond the affairs of a county, which have been characterized in prior Attorney General opinions as “affairs relating to the county in its organic and corporate capacity and included within its governmental or corporate powers.” See OAG, 1945-1946, No 0-4471, *supra*. On the other hand, it is possible that a noise control ordinance could be adopted by a county board of commissioners, provided that the ordinance was limited to the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies. See OAG, No 6665, *supra*, concluding that although counties lack authority to regulate the placement of cigarette vending machines within their respective borders, they may regulate such activity on county property.

Additional support for this limited approach to a countywide noise control ordinance is found in sections 11(l) and (m) of the County Act that authorize a county board to manage the county’s property [subsection (l)] and manage the interests and business concerns of the county [subsection (m)]. Existing statutory provisions, however, do not provide a county board of commissioners with authority to adopt a countywide noise control ordinance since the scope of the proposed ordinance is not limited to county affairs, *i.e.*, the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies.

It is my opinion, therefore, that a county board of commissioners in a noncharter county lacks authority to adopt a countywide noise control ordinance.

JENNIFER M. GRANHOLM  
Attorney General

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OPINIONS OF THE ATTORNEY GENERAL

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**OPINIONS OF THE ATTORNEY GENERAL**

CONCEALED WEAPONS:

Private investigator carrying concealed pistol in  
gun-free zones

FIREARMS:

PRIVATE DETECTIVES:

A private investigator licensed to carry a concealed pistol is not, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.

Opinion No. 7097

January 11, 2002

Honorable Doug Spade  
State Representative  
The Capitol  
Lansing, MI

You have asked whether a private investigator licensed to carry a concealed pistol is, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.

Private investigators are licensed under the Private Detective License Act of 1965, 1965 PA 285, MCL 338.821 *et seq.* That act does not, however, authorize a private investigator to carry a concealed pistol.

In the Concealed Pistol Licensing Act (Act), 1927 PA 372,<sup>1</sup> MCL 28.421 *et seq.*, the Legislature has addressed the licensing of persons to carry concealed pistols. Section 5b of the Act contains the requirements for obtaining a license to carry a concealed pistol. Under section 12a, various categories of persons, including peace officers, are made exempt from the requirements of section 5b for obtaining a license to carry a

concealed pistol. There is, however, no exemption for private investigators in section 12a or in any other section of the Act. Thus, private investigators may carry concealed pistols only if they are licensed to do so under section 5b of the Act. Once licensed to carry a concealed pistol, private investigators are subject to the Act's restrictions in the same manner as any other person licensed to carry a concealed pistol.

In 2000 PA 381, the Legislature significantly amended the Concealed Pistol Licensing Act. New section 5b of the Act changed the requirements for obtaining a license to carry a concealed pistol. Under section 5b(7), a county concealed weapon licensing board "shall issue a license to an applicant" who meets the requirements of the Act. Once the board has issued a license, the license holder may, subject to exceptions stated in section 5o, carry a concealed pistol "anywhere in this state."

In section 5o, however, the Legislature enumerated certain so-called gun-free zones, i.e., premises where a person licensed to carry a concealed pistol shall not carry a concealed pistol.

*Sec. 5o (1) An individual licensed under this act to carry a concealed pistol, . . . shall not carry a concealed pistol on the premises of any of the following:*

- a) A school or school property . . . .
- b) A public or private day care center, public or private child caring agency, or public or private child placing agency.
- c) A sports arena or stadium.
- d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998 . . . . This subdivision shall not apply to an owner or employee of the premises.
- e) Any property or facility owned or operated by a church, synagogue, mosque, temple or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

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<sup>1</sup> The Act was significantly revised by amendatory 2000 PA 381.



- f) An entertainment facility [that has a seating capacity of 2,500 or more].
- g) A hospital.
- h) A dormitory or classroom of a community college, college, or university. [Emphasis added.]

Section 5o of the Act expressly prohibits persons licensed under the Act from carrying concealed pistols in the specified gun-free zones.<sup>2</sup> Nothing in section 5o or in any other section of the Act exempts private investigators from its prohibitions. A clear and unambiguous statement in a statute must be enforced as written according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper v Pettibone Corp*, 450 Mich 565, 572; 542 NW2d 269 (1995). Therefore, a person licensed to carry a concealed pistol, even if that person is a licensed private investigator, must obey section 5o of the Concealed Pistol Licensing Act and shall not carry a concealed pistol in any of the gun-free zones identified in the Act.

This conclusion is not affected by the provisions of section 234d of the Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq*. That statute prohibits certain persons from possessing firearms on certain types of premises as follows:

Sec. 234d (1) Except as otherwise provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

- a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.
- b) A church or other house of religious worship.
- c) A court.

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<sup>2</sup> A person with a license to carry a concealed pistol who carries a pistol on premises protected under section 5o(1)(a)-(h) of the Concealed Pistol Licensing Act is subject to the penalties in section 5o(3)(a)-(c) of the Act. These penalties include fines, license suspension or revocation, and for third time offenders, up to four years imprisonment.

- d) A theatre.
  - e) A sports arena.
  - f) A day care center.
  - g) A hospital.
  - h) An establishment licensed under the Michigan liquor control act, . . .
- .
- (2) This section does not apply to any of the following:
- a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.
  - b) A peace officer.
  - c) *A person licensed by this state or another state to carry a concealed weapon.*
  - d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity. [Emphasis added.]

By its express terms, section 234d prohibits certain persons from carrying a firearm in the enumerated places but explicitly exempts from its prohibition "[a] person licensed by this state or another state to carry a concealed weapon." Thus, any person licensed to carry a concealed pistol, including a private investigator, is exempt from the gun-free zone restrictions imposed by section 234d of the Penal Code and may therefore possess firearms while on the types of premises listed in that statute.

When applied to a private investigator licensed to carry a concealed pistol, there is no inherent conflict between the gun-free zone provisions in section 234d of the Penal Code and those in section 5o of the Concealed Pistol Licensing Act. The former statute, which prohibits firearms in certain protected zones, does

not apply to persons who are licensed to carry a concealed weapon.<sup>3</sup> The latter statute, which contains no exemptions, prohibits concealed weapon licensees from carrying a concealed pistol in certain protected gun-free zones. The legislative prohibition in section 5o of the Concealed Pistol Licensing Act is not diminished in any way by section 234d of the Penal Code. When statutes govern the same subject matter and are in *pari materia*, the court must endeavor to construe them harmoniously and to give them reasonable effect. *Speaker v State Administrative Bd*, 441 Mich 547, 568, 579; 495 NW2d 539 (1993).

It is my opinion, therefore, that a private investigator licensed to carry a concealed pistol is not, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.

JENNIFER M. GRANHOLM  
Attorney General

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<sup>3</sup> A similar statutory provision criminalizes the possession of weapons in school zones but expressly exempts certain persons, including persons licensed to carry a concealed weapon. MCL 750.237a.

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OPINIONS OF THE ATTORNEY GENERAL

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**OPINIONS OF THE ATTORNEY GENERAL**

CONCEALED WEAPONS: Application of Concealed Pistol Licensing  
Act's licensing requirement to police officer  
FIREARMS: and reserve police officer

LAW ENFORCEMENT: Application of Concealed Pistol Licensing  
Act's gun-free zone restrictions to police  
PEACE OFFICERS: officer and reserve police officer

POLICE:

A police officer, including a reserve police officer, is exempt from the licensing requirements of the Concealed Pistol Licensing Act if the officer possesses the full authority of a peace officer and is regularly employed and paid by a police agency of the United States, this state, or a political subdivision of the state.

A police officer who is exempt from the licensing requirements of the Concealed Pistol Licensing Act, but who voluntarily obtains a concealed pistol license under that act, is not subject to the act's gun-free zone restrictions unless the officer is off-duty and is relying solely on the authority of that license.

Opinion No. 7098

January 11, 2002

Honorable Christopher D. Dingell  
State Senator  
The Capitol  
Lansing, MI 48913

Honorable Ruth Johnson  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked two questions regarding the treatment of police officers under the Concealed Pistol Licensing Act as most recently amended by 2000 PA 381.

Your first question asks whether a police officer, including a reserve police officer, is required to obtain a concealed pistol license under section 6 of the Concealed Pistol Licensing Act in order to lawfully carry a concealed pistol.

The Concealed Pistol Licensing Act (Act), 1927 PA 372, MCL 28.421 *et seq*, regulates the possession and carrying of certain firearms. As originally enacted, section 6 of the Act created a county concealed weapon licensing board and granted to that board considerable discretion in determining whether to issue a license to carry a concealed pistol to individual residents of the county. 2000 PA 381 made substantial amendments to the Act and added numerous new provisions. Among these new provisions is a new section 5b(7) that now sets forth the specific qualifications a person must possess in order to receive a concealed pistol license and further provides that the county concealed weapon licensing board "shall issue" licenses to persons meeting all of those qualifications.

Section 12a of the Act, as added by 1964 PA 216, has long provided that the licensure provisions of section 6 do not apply to various classes of persons, including peace officers who are regularly employed and paid by a police agency of the United States, this state, or a political subdivision. That exemption is continued in the current version of the Act. As most recently amended by 2000 PA 381, section 12a of the Act provides, in pertinent part, that:

The requirements of this act for obtaining a license to carry a concealed pistol *do not apply* to any of the following:

(a) *A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or of a subdivision of this state, except a township constable. [Emphasis added.]*

Thus, in order to come within the scope of this exemption, a person must be a "peace officer" and must be "regularly employed and paid" by a qualifying unit of government.

The term "peace officer" as used in the Concealed Pistol Licensing Act refers to members of police forces of governmental units who have been given broad, general authority by law to enforce and preserve the public peace. *People v Bissonette*, 327 Mich 349, 356; 42 NW2d 113 (1950). Police officers of a police

department of a political subdivision of this state possess such authority and are, therefore, "peace officers." 1 OAG, 1955, No 1891, p 72 (February 24, 1955); 2 OAG, 1958, No 3212, p 60 (February 21, 1958). Conversely, police officers who possess only restricted or special enforcement authority do not meet this standard and therefore do not qualify as "peace officers." *People v Bissonette, supra*; OAG, 1987-1988, No 6530, p 362 (August 5, 1988).

The phrase "regularly employed" as used in section 12a of the Act has not been defined by the Legislature. The meaning of this phrase, however, was addressed in OAG, 1973-1974, No 4792, p 78 (August 27, 1973), which concluded that in order to be considered "regularly employed," a peace officer's work should be "substantial rather than merely occasional" and should form "at least a large part of his daily activity." *Id.*, at 79. See also OAG, 1979-1980, No 5806, p 1055 (October 28, 1980). Under this standard, a regular police officer who is employed on a full-time basis clearly is "regularly employed" for purposes of section 12a of the Act.

A more difficult problem is presented in the case of reserve police officers who are typically employed on less than a full-time basis. In such cases, it is necessary to address the factual issue of whether the individual officer in question is "regularly employed and paid" within the meaning of section 12a of the Act. OAG No 5806, *supra*, at 1054, considered the status of such reserve officers and concluded that, in order to be exempt from the Act's licensing requirement, a reserve police officer must first apply to the county concealed weapon licensing board to obtain a determination by the board whether the individual officer qualifies for the section 12a exemption. The board must determine, *inter alia*, whether the individual officer is "regularly employed," i.e., whether the officer performs substantial work that constitutes a large part of the officer's daily activity. OAG No 4792, *supra*. If the board finds that a particular reserve police officer is "regularly employed and paid" by a police agency of the United States, this state, or a political subdivision of this state, the officer is exempt from the Act's licensing requirements for carrying a concealed pistol. If, however, the licensing board finds that the

reserve officer is not regularly employed and paid by one of such police agencies, licensure is required under the Act before the officer may carry a concealed pistol. OAG No 4792, *supra*, reached the same conclusion with respect to constables.

It is my opinion, therefore, in answer to your first question, that a police officer, including a reserve police officer, is exempt from the licensing requirements of the Concealed Pistol Licensing Act if the officer possesses the full authority of a peace officer and is regularly employed and paid by a police agency of the United States, this state, or a political subdivision of the state.

Your second question asks if a police officer who is exempt from the licensure requirements of the Concealed Pistol Licensing Act, by voluntarily obtaining a license under that Act, becomes subject to the Act's gun-free zone restrictions, either while on or off duty.

As noted in the answer to your first question, the Act clearly and unambiguously exempts regularly employed peace officers from its licensing requirements. Accordingly, such officers need not obtain a license under the Act in order to lawfully carry a concealed pistol. Nothing in the Act, however, prohibits a police officer from voluntarily applying for and obtaining a concealed pistol license if that officer chooses to do so. Moreover, assuming that the officer meets all of the statutory requirements specified in section 5b(7) of the Act, the county licensing board "shall issue" a license to that individual. In these circumstances, the officer would then possess two separate and independent sources of authority for carrying such a concealed pistol: (1) the officer's authority as a regularly employed peace officer; and (2) the authority conferred by the license issued under the Act. Your questions asks, in effect, whether the statutory restrictions attached to the latter source of authority might somehow modify or restrict the officer's separate authority as a peace officer. Specifically, you inquire about the effect of section 5o of the Act, as added by 2000 PA 381, which creates certain gun-free zones as follows:

(1) An individual licensed under this act to carry a concealed pistol . . . shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private day care center, public or private child caring agency, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303. This subdivision shall not apply to an owner or employee of the premises.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp*, 450 Mich 565, 571; 542 NW2d 269 (1995). Where the language of the statute is clear and unambiguous, the Legislature's intent must be carried out according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper, supra*, at 572.

The gun-free zone restrictions described in section 5o of the Act, by their express terms, apply only to a person who is carrying a concealed pistol under the authority of a license issued under the Act. Nothing in the



Act in any way indicates or suggests that the gun-free zone restrictions are to be extended to a police officer acting under his or her authority as a regularly employed peace officer, even if that officer has elected to apply for and obtain a concealed pistol license under the Act. Thus, as a practical matter, the application of these gun-free zone restrictions to a police officer would depend upon the facts and circumstances of the incident. If the officer is off-duty and chooses to rely solely on his or her concealed pistol license under the Act, the Act's gun-free zone restrictions applicable to that license would apply. But those restrictions plainly do not apply if the police officer, whether on or off duty, can and does rely on his or her independent authority to carry a concealed pistol as a peace officer regularly employed and paid by a police agency of the United States, this state, or a political subdivision.

It is my opinion, therefore, in answer to your second question, that a police officer who is exempt from the licensing requirements of the Concealed Pistol Licensing Act, but who voluntarily obtains a concealed pistol license under that Act, is not subject to the act's gun-free zone restrictions unless the officer is off-duty and is relying solely on the authority of that license.

JENNIFER M. GRANHOLM  
Attorney General

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OPINIONS OF THE ATTORNEY GENERAL

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**OPINIONS OF THE ATTORNEY GENERAL**

CAMPAIGN FINANCE ACT: Casino officer or manager making contribution  
to independent committee

CASINOS:

ELECTIONS: Independent committee's obligation to return  
prohibited contribution

GAMBLING:

POLITICAL ACTIVITY:

Section 7b of the Michigan Gaming Control and Revenue Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

An independent committee that receives a contribution prohibited by section 7b of the Michigan Gaming Control and Revenue Act is not subject to a penalty for failure to return the contribution unless the committee first receives a notice from the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.

Opinion No. 7099

January 9, 2002

Honorable Dale L. Shugars  
State Senator  
The Capitol  
Lansing, MI 48909-7536

You have asked two questions both of which concern section 7b of the Michigan Gaming Control and Revenue Act (Gaming Act), 1996 Initiated Law, MCL 432.201 *et seq.*

The scope and purpose of the Gaming Act is described in its title, which states, in part, that it is:

An act to provide for the licensing, regulation, and control of casino gaming operations, manufacturers and distributors of gaming devices and gaming related equipment and supplies, and persons who participate in gaming; . . . *to restrict certain political contributions*; [and] to establish a code of ethics for certain persons involved in gaming; . . . [Emphasis added.]

In furtherance of this purpose, section 7b of the Gaming Act contains provisions that prohibit contributions by certain persons connected with casino operations or with licensed casino suppliers to political candidates and committees, including contributions to an “independent committee” as that term is defined by section 8 of the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 *et seq.*<sup>1</sup>

Your first question asks whether section 7b of the Gaming Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

To illustrate your concern, you describe a series of hypothetical situations each involving a certified public accountant who wishes to make a contribution to the Michigan Association of Certified Public Accountants Political Action Committee (MACPAPAC). You advise that MACPAPAC is an independent committee established by the Michigan Association of Certified Public Accountants to identify and make contributions to candidates who support the advancement of the practice of certified public accounting and that it solicits and accepts contributions only from members of the Association. You ask if section 7b of the Gaming Act would operate to prohibit a certified public accountant from contributing to MACPAPAC if the accountant is, for example, (1) an officer of a non-accounting firm that is a licensed casino supplier; (2) employed by, but owns no equity in, a large accounting firm that is licensed as a casino supplier; or (3) the owner of an equity share in a large accounting firm that is licensed as a casino supplier. You also inquire whether it would make a difference if the employee in any of these circumstances had no role in directing or controlling the independent committee.

Subsections 7b(4) and (5) of the Gaming Act provide in pertinent part that:

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<sup>1</sup> The Gaming Act regulates, *inter alia*, casino suppliers and requires suppliers to be licensed according to standards set forth in Section 7a. Under the Gaming Act, a “licensee” is a person who holds either a casino license or a supplier’s license. Section 7b(1)(c) and (d).

(4) A licensee or person who has an interest in a licensee or casino enterprise, . . . or person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or a committee . . . .

\* \* \*

(5) A licensee or person who has an interest in a licensee or casino enterprise, . . . or a person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or committee through a legal entity that is established, directed, or controlled by any of the persons described in this subsection . . . .

Violation of these provisions is a felony punishable by 10 years imprisonment, a \$100,000 fine, and a permanent bar against receiving or maintaining a casino-related license. Section 18(1)(f) of the Gaming Act. These provisions expressly prohibit contributions to a political candidate or committee not only by a licensee but also by a “person holding an interest” in a licensee or in a casino enterprise.<sup>2</sup> Section 7b(2) specifically defines what shall be considered to be such an interest:

(2) For purposes of this section, a person is considered to have an interest in a licensee or casino enterprise if any of the following circumstances exist:

(a) The person holds at least a 1% interest in the licensee or casino enterprise.

(b) The person is an *officer or managerial employee of the licensee* or casino enterprise as defined by rules promulgated by the board.

(c) The person is an officer of the person who holds at least a 1% interest in the licensee or casino enterprise.

(d) The person is an independent committee of the licensee or casino enterprise. [Emphasis added.]

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<sup>2</sup> Sections 7b(4) and (5) of the Gaming Act also purport to restrict political contributions by a “spouse, parent, child, or spouse of a child” of certain casino-related licensees or interest holders. OAG, 1997-1998, No 7002, pp 206, 210 (December 17, 1998), concluded that those portions of sections 7b(4) and (5) that purport to prohibit political contributions by a spouse, parent, child, or spouse of a child violate the free speech provisions of the First Amendment to the United States Constitution and are, therefore, unconstitutional.

Thus, the plain and unambiguous terms of section 7b(2)(b) make it clear that any person who is an officer or a managerial employee<sup>3</sup> of a licensee, or of a casino enterprise, is a “person who has an interest in” that licensee or enterprise; such a person is subject to the prohibition in sections 7b(4) and (5) of the Gaming Act. Moreover, while ownership of a financial interest of 1% or more in the licensee or enterprise is sufficient, in and of itself, to give the person an “interest in” the casino licensee or enterprise under section 7b(2)(a), no such financial requirement is included in section 7b(2)(b). Nor does section 7b(2)(b) make any distinction based upon whether the person does or does not play a role in directing the affairs of the independent committee to which the contribution is being made. To the contrary, under the plain language of section 7b(2)(b), the only relevant factor is whether the person is in fact an officer or managerial employee of the licensee or casino enterprise; if so, that person is prohibited from making a contribution to an independent committee even if he or she does not hold a financial interest in the licensee or casino enterprise.

These explicit provisions of section 7b directly address each of the specific examples described in your inquiry:

1. An individual who is an officer in an accounting firm that is a licensed casino supplier is “an officer or managerial employee of” that licensed supplier and, therefore, clearly does “have an interest in” that licensee as defined by section 7b(2)(b); such an individual would be prohibited from contributing to MACPAPAC under sections 7b(4) and (5).
2. An individual who is employed by a large accounting firm that is licensed as a casino supplier, but who owns no equity interest in that firm, does not have an interest in that licensee within the meaning of section 7b, provided that the individual is neither an officer nor a managerial employee of the licensee; such an employee, therefore, would not be prohibited from making a contribution to MACPAPAC.
3. Finally, the owner of an equity interest in a large accounting firm that is licensed as a casino supplier does have an interest in that licensee if the equity interest is equal to or greater than a

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<sup>3</sup> The Administrative Rules promulgated by the Michigan Gaming Control Board [1998 MR 6, R 432.1101 *et seq*] do not define either “officer” or “managerial employee.” However, the Gaming Act itself defines both terms. A “managerial employee” is defined at section 2(cc) as “a person who by virtue of the level of their remuneration or otherwise holds a management, supervisory, or policy making position with any licensee under this act, vendor, or the board.” Section 7b(1)(e) defines the term “officer” as either of the following: (i) An individual listed as an officer of a corporation, limited liability company, or limited liability partnership. (ii) An individual who is a successor to an individual described in subparagraph (i).

1% interest; such a person, therefore, would be prohibited from contributing to MACPAPAC under sections 7b(4) and (5).

It is my opinion, therefore, in answer to your first question, that section 7b of the Michigan Gaming Control and Revenue Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

Your second question asks whether an independent committee that receives a contribution prohibited under section 7b of the Michigan Gaming Control and Revenue Act is subject to a penalty for failure to return the contribution before the committee is notified by the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.

The Campaign Finance Act regulates the financing of political campaigns. It was enacted "to ensure the integrity of Michigan's political campaigns and offices, thereby protecting the interest of the public at large, individual citizens, and candidates for political office." Senate Legislative Analysis, SB 1570, December 17, 1976.

Section 30 of the Campaign Finance Act, which prohibits a committee from knowingly maintaining the receipt of a contribution prohibited under section 7b of the Gaming Act, provides that:

(1) A committee shall not knowingly maintain receipt of a contribution from a person prohibited from making a contribution during the prohibited period under section 7b of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.207b.

The term "knowingly," as it is used in this section, is narrowly defined by section 30(2) as follows:

(2) For purposes this section, a committee is only considered to have knowingly maintained receipt of a contribution prohibited under subsection (1) and is subject to a penalty<sup>4</sup> for that violation if both of the following circumstances exist:

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<sup>4</sup> Sections 15(9)-(11) of the Campaign Finance Act authorize the Secretary of State to investigate alleged violations of the act and, in appropriate cases, to issue an order requiring payment of a civil fine. Section 15(12) authorizes the Secretary of State to refer alleged violations of the act to the Attorney General for consideration of criminal prosecution.

(a) The secretary of state has, by registered mail, notified the committee that the committee has received a contribution in violation of this section and has specifically identified that contribution.

(b) The committee fails to return the contribution identified under subdivision (a) on or before the thirtieth business day after the date the committee receives the notification described in subdivision (a).

Under section 30 of the Campaign Finance Act, a committee that *knowingly* maintains receipt of a prohibited contribution must return it or be subject to a penalty. By adopting the very limited definition of the term “knowingly” as provided in sections 30(2)(a) and (b), the Legislature has chosen to require a committee to return a contribution prohibited under section 7b of the Gaming Act only *after* it receives specific written notification from the Secretary of State.

It is my opinion, therefore, in answer to your second question, that an independent committee that receives a contribution prohibited by section 7b of the Michigan Gaming Control and Revenue Act is not subject to a penalty for failure to return the contribution unless the committee first receives a notice from the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.

JENNIFER M. GRANHOLM  
Attorney General

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OPINIONS OF THE ATTORNEY GENERAL

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**OPINIONS OF THE ATTORNEY GENERAL**

BANKS AND BANKING: Interest chargeable under the Home  
Improvement Finance Act

CONSTITUTIONAL LAW: Validity of amendment to Home Improvement  
Finance Act under Const 1963, art 4, § 25

FINANCIAL INSTITUTIONS:

INTEREST:

USURY:

To the extent the Credit Reform Act purports to set the maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act, it violates Const 1963, art 4, § 25, which prohibits the Legislature from altering or amending a law unless the law is reenacted and published at length, and is therefore of no force and effect. Accordingly, the Credit Reform Act did not change or increase the amount of maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act.

Opinion No. 7100

January 14, 2002

Honorable Ken DeBeaussaert  
State Senator  
The Capitol  
Lansing, Michigan 48913

You have asked if the Credit Reform Act changed the maximum permissible interest rate that may be charged on installment contracts under the Home Improvement Finance Act.

The Home Improvement Finance Act (HIFA), 1965 PA 332, MCL 445.1101 *et seq*, provides that “[t]he maximum finance charge included in a home improvement installment contract . . . shall not exceed \$8.00



per \$100.00 per annum,” or 8%. Section 301(1).<sup>1</sup> The Credit Reform Act (CRA), 1995 PA 162, MCL 445.1851 *et seq*, however, permits a "regulated lender" to “charge, collect, and receive any rate of interest or finance charge for an extension of credit not to exceed 25% per annum.” Section 4(1). Under the CRA, a “regulated lender” includes “a seller under the home improvement finance act,” as well as a bank, and a savings and loan association. Sections 2(e) and (i).

The HIFA extensively regulates home improvement contracts for the modernization, rehabilitation, repair, alteration, or improvement of real property other than the construction of new homes. Section 102(g). The HIFA defines a “[h]ome improvement installment contract” [section 102(l)], and enumerates the required content for every home improvement installment contract. Sections 202 and 203. The HIFA further protects buyers by prohibiting onerous provisions in the contract. Section 206. The HIFA addresses delinquency and collection charges (section 209) and permits prepayment of the outstanding balance. Section 303. HIFA's comprehensive treatment of home improvement contracts articulates a particular regulatory scheme in a very specific act.

On the other hand, the CRA is a general act that regulates a wide variety of consumer loans. The only reference to the HIFA in the CRA is in its definition of “[r]egulated lender” which includes “a seller under the home improvement finance act, Act No. 332 of the Public Acts of 1965.” Section 2(i). The CRA permits a regulated lender to charge “any rate of interest or finance charge for an extension of credit not to exceed 25% per annum.” Section 4(1). Significantly, section 14 of the CRA provides, “[t]his act does not impair the validity of a transaction, rate of interest, fee, or charge that is otherwise lawful.”

The legislative history of the CRA reveals that it was but one of a ten-bill legislative package. Introduced as HB 4614, the purpose of the CRA was:

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<sup>1</sup> Additionally, the HIFA provides that a "home improvement charge agreement" may provide for a finance charge of up to 1.2%, or under specified situations 1.375%, on the unpaid balance per month. Section 204b(1). The HIFA defines a "[h]ome improvement charge agreement" [section 102(i)], and enumerates the required content for every home improvement charge agreement. Sections 204a and 204b.

[T]o allow depository and non-depository financial institutions in the state to charge, collect, and receive *any* rate of interest on loans made by them. The other bills in the package [HB 4615, 4616, 4617, 4618, 4619, 4620, 4621, 4622 and 4625] would amend different acts that cap the rate of interest that may be charged on various types of loans to permit any rate of interest to be charged on such loans. House Bills 4615 to 4622 and 4625 are all tie-barred to House Bill 4614. [House Legislative Analysis HBs 4614, 4625, 4615, 4616, 4617, 4618, 4619, 4620, 4621, and 4622, May 2, 1995.] [Emphasis added.]

Although in its original form HB 4614 placed no limit upon the maximum interest that could be charged for credit, House Substitute H-7 imposed a maximum 25% limit on the rate of interest or finance charge and, in that form, was approved by both the House and by the Senate. See 1995 Journal of House 1711, 2008; 1995 Journal of the Senate 1617.

HB 4617 sought to amend section 204b(1) of the HIFA to remove the 8% cap on the finance charge to be imposed and to insert a "finance charge as permitted by the credit reform act." Page 9, lines 18 and 19 of Substitute (H-1) to HB 4617. This bill, however, was never approved by the House. Instead, it was referred to the House Commerce Committee from which it did not reemerge.<sup>2</sup> 1995 Journal of the House 2078. The fact that HB 4617 never became law gives rise to the question whether the CRA is an attempt to amend by reference the HIFA's cap on interest chargeable on home improvement contracts. Since both the HIFA and CRA purport to set maximum finance charges applicable to home improvement contracts, the answer to your question requires an analysis of Const 1963, art 4, § 25.

The Michigan Constitution is a limitation on general legislative power. *Advisory Opinion on the Constitutionality of 1976 PA 240*, 400 Mich 311, 317-318; 254 NW2d 544 (1977). Const 1963, art 4, § 25, which prohibits the Legislature from revising, altering, or amending a statute merely by reference to its title, provides that:

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<sup>2</sup> Similarly, HB 4615 (credit cards, amend sections 1, 10, and 12 of 1984 PA 379, MCL 493.101 *et seq*), HB 4620 (banks, amend section 191 of 1969 PA 319, MCL 487.491), and HB 4625 (savings and loan association, amend section 718 of 1980 PA 307, MCL 491.718) were not passed by the House but instead were re-referred to the House Committee on Commerce. 1995 Journal of House 2077. The remaining bills in the package, not pertinent to your question, were enacted into law.

No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

In *Advisory Opinion re Constitutionality of 1972 PA 294*, 389 Mich 441, 470; 208 NW2d 469 (1973), the Michigan Supreme Court explained the meaning of Const 1963, art 4, § 25:

Section 25 is worded to prevent the revising, altering or amending of an act by merely referring to the title of the act and printing the amendatory language then under consideration. If such a revision, alteration or amendment were allowed, the public and the Legislature would not be given notice and would not be able to observe readily the extent and effect of such revision, alteration or amendment.

While considering Const 1963, art 4, § 25, the Michigan Supreme Court, in *Alan v Wayne County*, 388 Mich 210, 285; 200 NW2d 628 (1972), recognized that where the Legislature enacts a law with the intent to amend a prior statute so that its operation is narrower or broader than previously stated, without reenacting the amended statute, an unconstitutional statutory amendment occurs. The Court also concluded that if the Legislature's intent is not to amend or alter another statute, the Court would treat both acts as valid and "interpret them as they are written unaffected by subsequent statutes." *Id.*

The CRA's only reference to the HIFA is its definition of "[r]egulated lender" which includes "a seller under the home improvement finance act, Act No. 332 of the Public Acts of 1965." CRA, Section 2(i). As noted by the Michigan Supreme Court in *Alan v Wayne County, supra*, the intent of Const 1963, art 4, § 25, is to provide notice of the changes being made to a particular statute. A single definition contained within the CRA that purports to substantively alter or amend the HIFA by reference to its title only, without a full republication of the amended sections of the HIFA, does not provide the type of notice contemplated by Const 1963, art 4, § 25. It must therefore be concluded that to the extent the CRA purports to alter or amend the

interest rate ceiling applicable to installment contracts governed by the HIFA, such a change is an amendment by reference that violates Const 1963, art 4, § 25.

It is my opinion, therefore, that to the extent the Credit Reform Act purports to set the maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act, it violates Const 1963, art 4, § 25, which prohibits the Legislature from altering or amending a law unless the law is reenacted and published at length, and is therefore of no force and effect. Accordingly, the Credit Reform Act did not change or increase the amount of maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act.

JENNIFER M. GRANHOLM  
Attorney General

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

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*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		71	Yes	3/29	3/29	06/01/01	<b>CRIMES;</b> Homicide; certain crimes against prenatal children; expand to include death to the embryo or fetus. ( <b>Sen. W. Van Regenmorter</b> )
2		70	Yes	3/29	3/29	6/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of killing fetus or embryo; enact. ( <b>Sen. B. Schuette</b> )
3		199	No	3/29	3/29	07/01/02	<b>INSURANCE;</b> No-fault; Michigan catastrophic claims association retention limits; provide for. ( <b>Sen. J. Emmons</b> )
4	4322		Yes	3/30	3/30	03/30/01	<b>INSURANCE;</b> Insurers; coverage for home health care or assisted living services and assisted living facility stays; require definition. ( <b>Rep. S. Tabor</b> )
5	4234		Yes	4/11	4/12	04/12/01	<b>TRANSPORTATION;</b> Railroads; amount contributed by road authority for maintenance of active traffic control devices; revise. ( <b>Rep. J. Allen</b> )
6		1	Yes	5/2	5/2	05/02/01	<b>CRIMINAL PROCEDURE;</b> Statute of limitations; statute of limitations for certain cases of criminal sexual conduct in which DNA evidence was obtained; eliminate. ( <b>Sen. S. Johnson</b> )

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
7		341	Yes	5/24	5/24	05/24/01	<b>PROPERTY TAX</b> ; Millage; state education tax act; expand to include a credit against tax levied under certain circumstances. ( <b>Sen. M. Goschka</b> )
8	4187		Yes	5/24	5/25	05/25/01	<b>CORRECTIONS</b> ; Prisoners; visitation; clarify procedures regarding minors visiting prisoners. ( <b>Rep. T. Stamas</b> )
9		67	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW</b> ; Marriage and divorce; section prohibiting certain marriages; repeal. ( <b>Sen. B. Hammerstrom</b> )
10		103	Yes	5/29	5/29	5/29/2001 #	<b>FAMILY LAW</b> ; Marriage and divorce; reference in "the code of criminal procedure" to section being repealed; strike out. ( <b>Sen. B. Hammerstrom</b> )
11		104	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW</b> ; Marriage and divorce; reference to section being repealed in "revised judicature act of 1961"; strike out. ( <b>Sen. M. Goschka</b> )
12		38	Yes	5/29	5/29	07/01/01	<b>WATERCRAFT</b> ; Intoxication; maximum imprisonment for boating under the influence; increase. ( <b>Sen. W. North</b> )
13		150	Yes	5/29	5/29	7/1/2001 #	<b>CRIMINAL PROCEDURE</b> ; Sentencing guidelines; sentencing guidelines for boating under the influence; provide for. ( <b>Sen. W. North</b> )
14	4099		Yes	6/5	6/6	9/1/2001 #	<b>HUMAN SERVICES</b> ; Children's services; self-defense training of children's protective services caseworkers; require, and allow children's protective services caseworkers to perform certain duties in pairs. ( <b>Rep. A. Sanborn</b> )

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
15	4409		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; increase and provide for allocation, increase civil fine for failure to secure a permit, and require report on expenditure of increase. <b>(Rep. D. Mead)</b>
16	4538		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; provide for allocation of increase. <b>(Rep. D. Mead)</b>
17	4235		Yes	6/11	6/12	6/12/01	<b>HIGHWAYS;</b> Name; renaming of M-109; establish as "D.H. Day Highway". <b>(Rep. J. Allen)</b>
18	4550		Yes	6/11	6/12	6/12/01	<b>TRAFFIC CONTROL;</b> Parking; disabled person parking permit; allow for out-of-state physician signatures accompanied by a copy of the physician's license to practice. <b>(Rep. G. DeRossett)</b>
19		75	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of impersonating a family independence agency employee; include in sentencing guidelines. <b>(Sen. J. Gougeon)</b>
20		74	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of threatening or physically harming a family independence agency employee; include in sentencing guidelines. <b>(Sen. B. Hammerstrom)</b>
21		73	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Fraud; penalties for impersonating a family independence agency employee; provide for. <b>(Sen. J. Gougeon)</b>
22		72	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Penalties; penalties for individuals who threaten or impose physical harm to a family independence agency employee; create. <b>(Sen. B. Hammerstrom)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
23	4412		Yes	6/17	6/18	06/18/01	<b>NATURAL RESOURCES;</b> Hunting; shooting preserves; change to game bird hunting preserves, revise licensing fee, and eliminate rule-making authority. <b>(Rep. L. DeVuyst)</b>
24		431	Yes	6/17	6/18	06/18/01	<b>INSURANCE;</b> Other; privacy requirements; enact. <b>(Sen. B. Bullard Jr.)</b>
25	4029		Yes	6/18	6/19	01/01/02	<b>INSURANCE;</b> Other; claim history dollar amounts for nonrenewal of homeowner's policy; increase. <b>(Rep. A. Richner)</b>
26	4166		Yes	6/21	6/22	06/22/01	<b>HEALTH;</b> Death; county medical examiner conducting statutorily required investigation of a death; grant subpoena power to require production of medical records, books, papers, documents, and other items. <b>(Rep. G. Van Woerkom)</b>
27	4429		Yes	6/21	6/22	06/22/01	<b>EDUCATION;</b> Board members; appointed members as part of majority vote requirement; include. <b>(Rep. T. Meyer)</b>
28	4505		Yes	6/21	6/22	06/22/01	<b>CONSTRUCTION;</b> Contracts; notification of certain differing site conditions; repeal sunset. <b>(Rep. J. Gilbert I)</b>
29	4630		Yes	6/28	6/28	06/28/01	<b>EDUCATION;</b> School districts; school districts to adopt parental involvement contracts; encourage and require department to develop model. <b>(Rep. W. Kuipers)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

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\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
30	4789		Yes	6/28	6/29	06/29/01	<b>RETIREMENT</b> ; Public school employees; postretirement earnings limitations; revise and extend certain sunset dates. ( <b>Rep. J. Allen</b> )
31		56	Yes	6/28	6/29	06/29/01	<b>RECORDS</b> ; Other; vital records fees; increase. ( <b>Sen. J. Schwarz</b> )
32		195	Yes	6/28	6/29	06/29/01	<b>LAW ENFORCEMENT</b> ; Fire personnel; civilian injured during fire demonstration; require state fire marshal to investigate. ( <b>Sen. M. Goschka</b> )
33		350	Yes	6/28	6/29	06/29/01	<b>AGRICULTURE</b> ; Animals; testing requirements for equines; revise and establish identification system. ( <b>Sen. L. Stille</b> )
34		29	Yes	6/28	6/29	03/01/02	<b>LOCAL GOVERNMENT</b> ; Bonds; revised municipal finance act; adopt. ( <b>Sen. J. Emmons</b> )
35	4222		Yes	6/28	6/29	6/29/2001#	<b>COUNTIES</b> ; Other; annual report to state board of assessors; require county tax or equalization department to make. ( <b>Rep. M. Mortimer</b> )
36	4223		Yes	6/28	6/29	6/29/2001 #	<b>COUNTIES</b> ; Other; annual tabular statement to state tax commission; require county tax or equalization department to make. ( <b>Rep. M. Mortimer</b> )
37		360	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; cities to form nonprofit corporations; allow. ( <b>Sen. J. Gougeon</b> )
38		361	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; nonprofit corporations formed by cities; make subject to open meetings act. ( <b>Sen. J. Gougeon</b> )

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+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
39		491	Yes	7/11	7/11	07/11/01	<b>USE TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. ( <b>Sen. B. Bullard Jr.</b> )
40		492	Yes	7/11	7/11	07/11/01	<b>SALES TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. ( <b>Sen. B. Bullard Jr.</b> )
41	4255		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Corrections; department of corrections; provide for fiscal year 2001-2002. ( <b>Rep. C. LaSata</b> )
42	4256		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Education; department of education; provide for fiscal year 2001-2002. ( <b>Rep. R. Jelinek</b> )
43	4257		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Environmental quality; department of environmental quality; provide for fiscal year 2001-2002. ( <b>Rep. D. Mead</b> )
44	4259		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Natural resources; department of natural resources; provide for fiscal year 2001-2002. ( <b>Rep. D. Mead</b> )
45		231	Yes	7/19	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Capital outlay; 2001-2002 fiscal year; provide for. ( <b>Sen. H. Gast</b> )
46		256	Yes	7/20	7/23	07/23/01	<b>LIQUOR;</b> Other; employee samples of certain alcoholic beverages; allow under certain conditions. ( <b>Sen. S. Johnson</b> )
47		396	Yes	7/20	7/23	07/23/01	<b>HIGHWAYS;</b> Signs; signs on limited access highways disclosing hospital name and highway exit number; require. ( <b>Sen. T. McCotter</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
48		446	Yes	7/20	7/23	07/23/01	<b>PUBLIC UTILITIES;</b> Other; clarification of public utilities; provide for. ( <b>Sen. M. Dunaskiss</b> )
49	4792		Yes	7/20	7/23	07/23/01	<b>ENVIRONMENTAL PROTECTION;</b> Air pollution; fee structure that funds air quality operating permit program; revise. ( <b>Rep. C. LaSata</b> )
50	4912		Yes	7/20	7/23	07/23/01	<b>NATURAL RESOURCES;</b> Trust funds; game and fish trust fund; authorize annual appropriation of \$6,000,000.00 from corpus to game and fish protection fund. ( <b>Rep. L. DeVuyst</b> )
51		238	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> State police; department of state police; provide for fiscal year 2001-2002. ( <b>Sen. P. Hoffman</b> )
52	4253		Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Community colleges; community and junior colleges; provide for fiscal year 2001-2002. ( <b>Rep. T. Stamas</b> )
53		230	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Agriculture; department of agriculture; provide for fiscal year 2001-2002. ( <b>Sen. G. McManus Jr.</b> )
54		237	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Military affairs; department of military affairs; provide for fiscal year 2001-2002. ( <b>Sen. P. Hoffman</b> )
55		236	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Other; judiciary budget; provide for fiscal year 2001-2002. ( <b>Sen. W. North</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
56	4576		Yes	7/23	7/23	07/23/01	<b>HIGHWAYS</b> ; Name; renaming a certain portion of I-69; establish as "Pearl Harbor Memorial Highway". <b>(Rep. L. Julian)</b>
57		206	Yes	7/23	7/23	07/23/01	<b>BUSINESSES</b> ; Business corporations; general amendments; provide for. <b>(Sen. B. Bullard Jr.)</b>
58		216	Yes	7/23	7/23	07/23/01	<b>BUSINESSES</b> ; Other; professional services corporations; clarify applicability of business corporations act to. <b>(Sen. B. Bullard Jr.)</b>
59		239	Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS</b> ; Transportation; state transportation department; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
60	4254		Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS</b> ; Community health; department of community health; provide for fiscal year 2001-2002. <b>(Rep. M. Mortimer)</b>
61	4939		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED)</b> ; Department of management and budget act; transfer management and operation of the Michigan library and historical center facilities to the department of management and budget. <b>(Rep. T. George)</b>
62	4940		Yes	7/23	7/24	10/01/01	<b>STATE AGENCIES (PROPOSED)</b> ; Library of Michigan act; transfer to department of history, arts, and libraries. <b>(Rep. T. George)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
63	4941		Yes	7/23	7/24	08/06/01	<b>STATE AGENCIES (PROPOSED);</b> Department of history, arts, and libraries; create in statute. <b>(Rep. G. Van Woerkom)</b>
64	4942		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> District library establishment act; transfer to department of history, arts, and libraries. <b>(Rep. L. Lemmons III)</b>
65	4943		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> State aid to public libraries; transfer to department of history, arts, and libraries. <b>(Rep. M. Middaugh)</b>
66	4944		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan historical commission; transfer to department of history, arts, and libraries. <b>(Rep. J. Kooiman)</b>
67	4945		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Local historic districts act; transfer to department of history, arts, and libraries. <b>(Rep. A. Sanborn)</b>
68	4946		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Preservation of historical sites under the jurisdiction of downtown development authority; transfer to department of history, arts, and libraries. <b>(Rep. P. Birkholz)</b>
69	4947		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Single business tax credit for rehabilitation of a historic resource with certification by Michigan historical center; transfer to department of history, arts, and libraries. <b>(Rep. M. Bishop)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70	4948		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Income tax credit for rehabilitation of historic resource with certification by Michigan historic center; transfer to department of history, arts, and libraries. <b>(Rep. S. Vear)</b>
71	4949		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records management, retention, disposal, inspection, inventory, protection, and preservation; transfer to department of history, arts, and libraries. <b>(Rep. J. Rivet)</b>
72	4950		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records media act; transfer to department of history, arts, and libraries. <b>(Rep. P. Zelenko)</b>
73	4951		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Historic sites; transfer to department of history, arts, and libraries. <b>(Rep. M. Mortimer)</b>
74	4952		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Authority to promulgate rules to provide for the disclosure of the location of archaeological sites; transfer to department of history, arts, and libraries. <b>(Rep. J. Koetje)</b>
75	4953		Yes	7/23	7/24	07/24/01 #	<b>STATE AGENCIES (PROPOSED);</b> Aboriginal records and antiquities; transfer to department of history, arts, and libraries. <b>(Rep. J. Gilbert II)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
76	4954		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Reproduction and destruction of court records; transfer to department of history, arts, and libraries. ( <b>Rep. W. McConico</b> )
77	4955		Yes	7/23	7/24	7/24/2001#	<b>STATE AGENCIES (PROPOSED);</b> Michigan iron industry museum advisory board; transfer to department of history, arts, and libraries. ( <b>Rep. D. Bovin</b> )
78	4956		Yes	7/23	7/24	8/6/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Mackinac Island state park commission and property under its control; transfer to department of history, arts, and libraries. ( <b>Rep. S. Tabor</b> )
79	4957		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan freedom trail commission; transfer to department of history, arts, and libraries. ( <b>Rep. S. Thomas III</b> )
80		232	Yes	7/23	7/25	07/25/01	<b>APPROPRIATIONS;</b> Other; department of career development and Michigan strategic fund; provide for fiscal year 2001-2002. ( <b>Sen. S. Johnson</b> )
81		283	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Supplemental; supplemental appropriation; provide for fiscal year 2000-2001. ( <b>Sen. H. Gast</b> )
82		235	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Family independence agency; family independence agency; provide for fiscal year 2001-2002. ( <b>Sen. M. Goschka</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
83		234	Yes	7/25	7/25	07/25/01	<b>APPROPRIATIONS</b> ; General; general government; provide for fiscal year 2001-2002. ( <b>Sen. J. Schwarz</b> )
84		394	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES</b> ; Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. ( <b>Sen. B. Bullard Jr.</b> )
85	4633		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE</b> ; Evidence; collection and retention of DNA samples under the youth rehabilitation services act from all individuals who have been convicted of or found responsible for a felony; require. ( <b>Rep. W. O'Neil</b> )
86	4612		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE</b> ; Evidence; collection and retention of DNA samples by the department of corrections from all individuals who have been convicted of a felony; require. ( <b>Rep. M. Kowall</b> )
87		389	Yes	7/26	7/26	1/1/2002 #	<b>LAW ENFORCEMENT</b> ; State police; DNA database; expand to include certain crimes and juvenile offenses. ( <b>Sen. W. Van Regenmorter</b> )
88	4610		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE</b> ; Evidence; collection and retention of DNA samples; expand to all convicted felons and provide penalty for refusing to give sample. ( <b>Rep. J. Faunce</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
89	4613		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE</b> ; Evidence; collection and retention of DNA samples under the Michigan penal code from all individuals who have been convicted of a felony; require. <b>(Rep. T. George)</b>
90		393	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES</b> ; Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. <b>(Sen. T. McCotter)</b>
91	4611		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE</b> ; Evidence; collection and retention of DNA samples under the probate code of 1939 from all individuals who have been convicted of or found responsible for a felony; require. <b>(Rep. L. Julian)</b>
92	4547		Yes	7/27	7/30	07/30/01	<b>PROPERTY</b> ; Conveyances; certain state owned property in Macomb county, Delta county, and Ingham county; provide for conveyance. <b>(Rep. A. Sanborn)</b>
93	4459		Yes	7/27	7/30	07/30/01	<b>ECONOMIC DEVELOPMENT</b> ; Enterprise zones; neighborhood enterprise zone expansion to include exemption for certain homes; provide for. <b>(Rep. L. Lemmons III)</b>
94		547	Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Delinquent taxes; delinquent property tax forfeiture and foreclosure process; revise. <b>(Sen. S. Johnson)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
95	4709		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Other; certain reference to publication requirements; eliminate. ( <b>Rep. R. Richardville</b> )
96	4711		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Other; hardship standards; clarify. ( <b>Rep. L. Hager</b> )
97	4713		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Payment and collection; payment of taxes and exemption from interest, penalties, and fees; provide for technical amendments. ( <b>Rep. A. Sanborn</b> )
98	4715		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Payment and collection; payment of certain delinquent taxes; provide for technical amendments. ( <b>Rep. W. McConico</b> )
99	4716		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Delinquent taxes; ability to expend proceeds of delinquent land sales; expand to include counties. ( <b>Rep. P. Birkholz</b> )
100	4717		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Delinquent taxes; May tax lien sale; prohibit after May 2001 for delinquent 1998 taxes. ( <b>Rep. J. Gilbert II</b> )
101	4718		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX</b> ; Other; certain recording requirements and requirement for vendor to be a licensed title insurance company or agent; eliminate. ( <b>Rep. R. Jamnick</b> )
102	4540		Yes	7/27	7/30	07/30/01	<b>SALES TAX</b> ; Exemptions; requirement for certificates of exemption; exclude certain individuals licensed by the Michigan liquor control commission. ( <b>Rep. M. Kowall</b> )

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103		373	Yes	7/27	7/30	10/01/01	<b>CRIMES;</b> Vehicle offenses; penalties for injuring or causing death to construction workers in a construction zone and to operators of implements of husbandry; increase. (Sen. B. Bullard Jr.)
104		374	Yes	7/27	7/30	10/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for certain crimes involving construction workers in a construction zone and operators of implements of husbandry; provide for. (Sen. B. Bullard Jr.)
105		464	Yes	7/27	7/30	07/30/01	<b>FINANCIAL INSTITUTIONS;</b> Credit unions; conversion plan; establish procedures. (Sen. S. Johnson)
106		317	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; provisions governing child support orders; consolidate in support and parenting time enforcement act and enact provisions related to dependent health care coverage. (Sen. B. Hammerstrom)
107		318	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; divorce law; enact technical amendments to consolidate child support provisions and revise provisions related to capacity to marry. (Sen. B. Hammerstrom)
108		319	Yes	7/27	7/30	9/30/2001#	<b>CHILDREN;</b> Support; child custody act; enact technical amendments to consolidate child support provisions. (Sen. B. Hammerstrom)

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109		320	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN</b> ; Support; paternity act; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
110		321	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN</b> ; Support; act regulating status of minors; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
111		322	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN</b> ; Support; family support act; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
112		463	Yes	7/27	7/30	07/30/01	<b>STATE</b> ; Funds; certain withdrawals from the countercyclical budget and economic stabilization fund; clarify. <b>(Sen. H. Gast)</b>
113		351	Yes	7/30	7/31	07/31/01	<b>OCCUPATIONS</b> ; Individual licensing and regulation; procedures for filing complaints against contractors; revise. <b>(Sen. G. Steil)</b>
114		152	Yes	8/6	8/6	08/06/01	<b>NATURAL RESOURCES</b> ; Great Lakes; regulation of ballast water; provide for. <b>(Sen. K. Sikkema)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
115		546	No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; redistricting of congressional districts according to 2000 census; provide for. ( <b>Sen. B. Schuette</b> )
116	4965		No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; senate and house of representatives redistricting plan; create. ( <b>Rep. A. Richner</b> )
117		545	No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; redistricting of court of appeals according to 2000 census; provide for. ( <b>Sen. B. Schuette</b> )
118	4258		Yes	9/28	9/28	09/28/01	<b>APPROPRIATIONS;</b> Higher education; higher education; provide for fiscal year 2001-2002. ( <b>Rep. S. Caul</b> )
119		233	Yes	9/28	9/28	9/28/01 +	<b>APPROPRIATIONS;</b> Consumer and industry services; department of consumer and industry services and other state purposes; provide for fiscal year 2001-2002. ( <b>Sen. L. Bennett</b> )
120		291	Yes	9/28	9/28	9/28/2001 +	<b>APPROPRIATIONS;</b> Zero budget; department of history, arts, and libraries and supplemental; provide for fiscal year 2000-2001 and 2001-2002. ( <b>Sen. H. Gast</b> )
121	4371		Yes	9/28	9/28	9/28/2001 +	<b>APPROPRIATIONS;</b> School aid; school aid appropriations for certain fiscal years; supplement and adjust. ( <b>Rep. M. Shulman</b> )

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122	5080		Yes	10/5	10/8	10/08/01	<b>SALES TAX;</b> Collections; equitable sales and use tax administration act; enact. <b>(Rep. J. Allen)</b>
123		551	Yes	10/5	10/8	10/08/01	<b>STATE;</b> Funds; surplus funds; authorize loans to certain farmer owned cooperatives. <b>(Sen. M. Goschka)</b>
124		602	Yes	10/12	10/12	10/12/01	<b>VEHICLES;</b> License plates; "proud to be American" specialty plate; create and earmark revenues to the American national red cross and the salvation army. <b>(Sen. S. Johnson)</b>
125	4627		Yes	10/11	10/15	10/15/01	<b>TRADE;</b> Consumer goods and services; rights and responsibilities of hotels and bed and breakfasts renting rooms to minors; define. <b>(Rep. J. Allen)</b>
126	4791		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> Funds; Soo locks fund; establish as a separate restricted fund within comprehensive transportation fund. <b>(Rep. S. Shackleton)</b>
127	4384		Yes	10/11	10/15	10/15/01	<b>EDUCATION;</b> Intermediate school districts; investment of funds in certain mutual funds; allow. <b>(Rep. W. Kuipers)</b>
128	4018		Yes	10/11	10/15	10/15/01	<b>NATURAL RESOURCES;</b> Hunting; repeal of Macomb county Sunday hunting ban; provide for. <b>(Rep. S. Rocca)</b>
129	4734		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> Carriers; motor bus transportation act; provide for adoption of certain revisions to the federal motor carrier safety regulations. <b>(Rep. J. Gilbert II)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
130	4879		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> School vehicles; use of school buses to transport agricultural workers for certain agricultural purposes; allow. <b>(Rep. C. Brown)</b>
131	4793		Yes	10/11	10/15	10/15/01	<b>TORTS;</b> Governmental immunity; "governmental function" definition; add specific circumstance. <b>(Rep. A. Richner)</b>
132		404	Yes	10/23	10/23	01/01/02	<b>CRIMES;</b> Penalties; dollar amount threshold for misdemeanor and felony penalties under the Michigan family farm development act; revise. <b>(Sen. V. Garcia)</b>
133		405	Yes	10/23	10/23	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for certain violation of the Michigan family farm development act; amend to reflect revised penalties. <b>(Sen. C. Dingell)</b>
134	4813		Yes	10/23	10/23	02/01/02	<b>TRAFFIC CONTROL;</b> Violations; penalties for reckless driving; update references in vehicle code to correspond with repeal of felonious driving statute and include felonious driving in the vehicle code. <b>(Rep. R. Johnson)</b>

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+ - Line item veto

# - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
135		497	Yes	10/23	10/23	***	<b>CRIMES;</b> Weapons; discharging firearm while under the influence of intoxicating liquor or controlled substance causing death or serious impairment to a person; revise penalties, and prohibit certain threats regarding harmful substances or devices. ( <b>Sen. W. Van Regenmorter</b> )
136		675	Yes	10/23	10/23	*** #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of felonious driving and for certain bioterrorism crimes; provide for. ( <b>Sen. W. Van Regenmorter</b> )
137	4345		Yes	10/26	10/26	10/26/01	<b>HEALTH FACILITIES;</b> Nursing homes; involuntary transfer or discharge of a patient by a nursing home for certain economic reasons; prohibit. ( <b>Rep. J. Faunce</b> )
138	4360		Yes	10/26	10/26	10/26/01	<b>APPROPRIATIONS;</b> Supplemental; department of consumer and industry services regarding fire protection grants; provide for fiscal year 2001-2002. ( <b>Rep. M. Shulman</b> )
139	4776		Yes	10/26	10/26	10/26/01	<b>HEALTH;</b> Occupations; licensure of nursing home administrators; provide for under the public health code. ( <b>Rep. S. Vear</b> )
140	4783		Yes	10/26	10/26	10/26/01	<b>INSURANCE;</b> No-fault; procedure to disqualify certain agents of Michigan automobile insurance placement facility; provide for. ( <b>Rep. A. Sanborn</b> )

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141	4784		Yes	10/26	10/26	10/26/01	<b>INSURANCE;</b> No-fault; filing fee to contest auto policy cancellation; eliminate. <b>(Rep. A. Sanborn)</b>
142	4878		Yes	10/26	10/26	10/26/01	<b>HIGHWAYS;</b> Name; memorial highways; create a statute for the consolidation of names and require private funding for the cost of signs. <b>(Rep. T. George)</b>
143	4819		Yes	10/26	10/26	10/26/01	<b>INSURANCE;</b> Insurers; certain reporting requirements; eliminate. <b>(Rep. L. Julian)</b>
144	4513		Yes	10/26	10/26	10/26/01	<b>AGRICULTURE;</b> Products; sale of farm products on commission act; repeal. <b>(Rep. W. Kuipers)</b>
145	4774		Yes	10/26	10/26	01/01/02	<b>COMMERCIAL CODE;</b> Secured transactions; perfection of security interest in property subject to certain statutes, regulations, and treaties; clarify. <b>(Rep. A. Richner)</b>
146	5092		Yes	10/31	10/31	10/31/01	<b>PROPERTY TAX;</b> Limitation; property tax limitation act; revise election date for 2001. <b>(Rep. R. Brown)</b>
147	4924		Yes	11/5	11/5	2/1/2002 #	<b>INSURANCE;</b> Other; definition of eligible person for automobile insurance; update references in insurance code to correspond with repeal of felonious driving statute. <b>(Rep. R. Johnson)</b>
148	4925		Yes	11/5	11/5	2/1/2002 #	<b>VEHICLES;</b> Snowmobiles; order not to operate by secretary of state; update references in NREPA to correspond with repeal of felonious driving statute and revise certain time periods. <b>(Rep. R. Johnson)</b>

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149		402	Yes	11/5	11/5	01/01/02	<b>CRIMES;</b> Penalties; dollar amount threshold for misdemeanor and felony penalties for false crime victims compensation claims; revise. ( <b>Sen. W. Van Regenmorter</b> )
150		403	Yes	11/5	11/5	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; felony provisions for dollar amount threshold penalties under the false crime victims compensation claims; include in sentencing guidelines. ( <b>Sen. B. Hammerstrom</b> )
151		406	Yes	11/5	11/5	01/01/02	<b>CRIMES;</b> Penalties; dollar amount threshold for misdemeanor and felony penalties under construction lien act; revise. ( <b>Sen. B. Schuette</b> )
152		407	Yes	11/5	11/5	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; felony provisions for dollar amount threshold penalties under the construction lien act; include in sentencing guidelines. ( <b>Sen. T. McCotter</b> )
153		408	Yes	11/5	11/5	01/01/02	<b>CRIMES;</b> Fraud; dollar amount threshold for certain crimes under the state housing development authority act of 1966 involving false pretenses; revise. ( <b>Sen. B. Bullard Jr.</b> )
154		409	Yes	11/5	11/5	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of false pretenses in violation of the state housing authority act of 1966; revise to reflect increased penalties. ( <b>Sen. H. Gast</b> )

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155		410	Yes	11/5	11/5	01/01/02	<b>CRIMES;</b> Penalties; dollar amount threshold for certain misdemeanors and felonies in natural resources and environmental protection act; revise. <b>(Sen. M. Scott)</b>
156		411	Yes	11/5	11/5	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for certain natural resources and environmental protection act violations; revise to reflect increased penalties. <b>(Sen. G. Peters)</b>
157	4156		Yes	11/6	11/6	11/6/2001 #	<b>ECONOMIC DEVELOPMENT;</b> Plant rehabilitation; authority to impose certain administration fees; provide for. <b>(Rep. G. Woronchak)</b>
158	4548		Yes	11/6	11/6	11/06/01	<b>ECONOMIC DEVELOPMENT;</b> Enterprise zones; collection of first year tax assessment on certain property for the neighborhood enterprise zone tax; revise. <b>(Rep. N. Cassis)</b>
159		469	Yes	11/6	11/6	***	<b>TRAFFIC CONTROL;</b> Accidents; leaving the scene of an accident causing serious impairment or death; increase penalties, remove sunset on service fee, and provide other technical amendments to the vehicle code. <b>(Sen. L. Bennett)</b>

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160		470	Yes	11/6	11/6	2/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; provision in sentencing guidelines for leaving the scene of an accident causing serious impairment or death; provide for. ( <b>Sen. L. Bennett</b> )
161		671	Yes	11/6	11/6	11/06/01	<b>STATE;</b> Funds; budget stabilization fund withdrawal and supplemental appropriations; allow. ( <b>Sen. H. Gast</b> )
162	4174		Yes	11/6	11/7	11/07/01	<b>CIVIL PROCEDURE;</b> Service of process; service of summons in land contract proceedings; revise procedure, and revise certain time periods in those actions. ( <b>Rep. J. Koetje</b> )
163	4562		Yes	11/6	11/7	11/07/01	<b>HEALTH;</b> Diseases; information on meningitis and meningitis vaccination; identify and make available to institutions of higher education and high schools. ( <b>Rep. L. Hager</b> )
164	4771		Yes	11/6	11/7	11/07/01	<b>CONSTRUCTION;</b> Other; boards authorized to hear certain appeals; expand to include board of mechanical rules. ( <b>Rep. G. DeRossett</b> )
165	4626		Yes	11/6	11/7	11/07/01	<b>ENVIRONMENTAL PROTECTION;</b> Hazardous waste; fees and programs ; revise. ( <b>Rep. L. DeVuyt</b> )

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166		498	Yes	11/26	11/26	2/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of discharging firearm while under the influence of intoxicating liquor or a controlled substance, causing death or serious impairment to a person; enact. ( <b>Sen. W. Van Regenmorter</b> )
167	4491		Yes	11/26	11/26	11/26/01	<b>EDUCATION;</b> Calendar; provision establishing Friday before Labor day as holiday for schools; eliminate sunset. ( <b>Rep. S. Shackleton</b> )
168	5036		Yes	11/26	11/27	11/27/01	<b>TAXATION;</b> Other; tax amnesty and voluntary disclosure; provide for and modify. ( <b>Rep. M. Shulman</b> )
169	4481		Yes	11/26	11/27	11/27/01	<b>INCOME TAX;</b> Home heating credit; extension of the home heating credit; provide for. ( <b>Rep. N. Cassis</b> )
170	4775		Yes	11/29	11/30	11/30/01	<b>LABOR;</b> Hours and wages; reciprocal wage agreements; expand to include Canada and Canadian provinces and territories. ( <b>Rep. L. Hager</b> )
171	5181		Yes	11/29	11/30	11/30/01	<b>PROPERTY;</b> Conveyances; certain abandoned railroad property located in Grand Traverse county; provide for transfer to Traverse City area public schools. ( <b>Rep. J. Allen</b> )
172		30	Yes	11/29	11/30	01/01/02	<b>TORTS;</b> Immunity; limitation of malpractice liability for certain health professionals when providing uncompensated care; provide for. ( <b>Sen. W. North</b> )
173	4868		Yes	11-Dec	11-Dec	12/11/01	<b>CITIES;</b> Other; references to home rule cities with population over 1,000,000; revise to 750,000. ( <b>Rep. T. Reeves</b> )
174	4753		Yes	12/11	12/11	12/11/01	<b>NATURAL RESOURCES;</b> Other; land exchange facilitation fund; revise cap. ( <b>Rep. D. Mead</b> )
175	4448		No	12/11	12/11	03/22/02	<b>CIVIL PROCEDURE;</b> Civil actions; judgment of interest applicable to a written instrument evidencing indebtedness that bears an interest rate on which judgments of interest are allowed; clarify. ( <b>Rep. A. Richner</b> )

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176	5013		Yes	12/11	12/11	12/11/01	<b>NATURAL RESOURCES</b> ; Other; programs for implementation of conservation practices; provide for. <b>(Rep. G. DeRossett)</b>
177	4995		Yes	12/14	12/15	12/15/01	<b>LAND USE</b> ; Farmland and open space; open space preservation provisions; require in township zoning ordinances. <b>(Rep. R. Johnson)</b>
178	5028		Yes	12/14	12/15	12/15/01	<b>LAND USE</b> ; Zoning and growth management; open space preservation provisions; require in county zoning ordinance. <b>(Rep. R. Richardville)</b>
179	5029		Yes	12/14	12/15	12/15/01	<b>LAND USE</b> ; Zoning and growth management; open space preservation provisions; require in city or village zoning ordinance. <b>(Rep. C. Kolb)</b>
180	4333		Yes	12/20	12/21	12/21/01	<b>RETIREMENT</b> ; Public school employees; definition of person not regularly employed by a reporting unit; revise. <b>(Rep. J. Vander Roest)</b>
181	4733		Yes	12/20	12/21	12/21/01	<b>VETERANS</b> ; Other; veterans who did not graduate but joined the armed forces during World War II; grant high school diploma to. <b>(Rep. S. Ehardt)</b>
182	4811		Yes	12/20	12/21	12/21/01#	<b>INSURANCE</b> ; Other; certain reference to chapter 78; revise to chapter 81. <b>(Rep. L. Hager)</b>
183		494	Yes	12/20	12/21	12/21/01#	<b>INSURANCE</b> ; Other; certain provisions regarding sureties; repeal. <b>(Sen. B. Bullard Jr.)</b>
184	5091		Yes	12/20	12/21	12/21/01	<b>STATE</b> ; Buildings; display of national motto "In God We Trust" in public buildings; allow. <b>(Rep. S. Ehardt)</b>
185	5341		Yes	12/20	12/21	12/21/01 #	<b>LEGISLATURE</b> ; Other; arrest powers for house and senate sergeants; provide for. <b>(Rep. K. Bradstreet)</b>

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186	5342		Yes	12/20	12/21	12/21/01 #	<b>LAW ENFORCEMENT;</b> Training; certain commissioned sergeants at arms; exempt from certain certification requirements of commission on law enforcement standards act. ( <b>Rep. L. Julian</b> )
187		478	No	12/27	12/27	4/1/02#	<b>JUVENILES;</b> Criminal procedure; fingerprinting reports of final disposition to the department of state police; revise. ( <b>Sen. S. Johnson</b> )
188		479	No	12/27	12/27	4/1/02#	<b>LAW ENFORCEMENT;</b> Fingerprinting; requirement that fingerprints be forwarded; create procedure and exceptions. ( <b>Sen. S. Johnson</b> )
189	5281		Yes	12/27	12/27	4/1/02	<b>CRIMES;</b> Assaultive; certain prior domestic violence violations; allow to be considered for enhanced penalty. ( <b>Rep. S. Hummel</b> )
190		723	No	12/27	12/27	4/1/02	<b>CRIMES;</b> Assaultive; assault or battery of current or former dating partner; prohibit and provide for increased penalty for domestic violence under certain circumstances. ( <b>Sen. S. Johnson</b> )
191	5271		Yes	12/27	12/27	10/1/02	<b>LAW ENFORCEMENT;</b> Investigations; standard report for all domestic violence crimes; revise. ( <b>Rep. G. Newell</b> )
192	5280		Yes	12/27	12/27	10/1/02	<b>LAW ENFORCEMENT;</b> Investigations; death review teams for domestic violence homicides; authorize. ( <b>Rep. G. DeRossett</b> )
193		736	Yes	12/27	12/27	10/01/02	<b>FAMILY LAW;</b> Friend of the court; domestic violence training; provide for. ( <b>Sen. M. Scott</b> )
194	5304		Yes	12/27	12/27	4/1/02 #	<b>CRIMES;</b> Domestic violence; police implementation of policies concerning domestic violence calls to include procedures for enforcing foreign protection orders; provide for. ( <b>Rep. J. Kooiman</b> )

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195	4855		Yes	12/27	12/27	04/01/02	<b>CHILDREN</b> ; Custody; uniform child-custody jurisdiction and enforcement act; adopt. <b>(Rep. A. Richner)</b>
196	5273		Yes	12/27	12/27	04/01/02	<b>CIVIL PROCEDURE</b> ; Personal protection orders; nonrelationship stalking cases; require judge to record reason for issuing or refusing to issue a personal protection order. <b>(Rep. L. Toy)</b>
197	5275		Yes	12/27	12/27	4/1/02 #	<b>CRIMES</b> ; Domestic violence; full faith and credit provision of the federal violence against women act; implement. <b>(Rep. J. Faunce)</b>
198	5276		Yes	12/27	12/27	04/01/02	<b>CRIMINAL PROCEDURE</b> ; Other; prohibition against granting interim bond to person held for domestic assault and battery; revise. <b>(Rep. R. Richardville)</b>
199	5278		Yes	12/27	12/27	04/01/02	<b>CIVIL PROCEDURE</b> ; Personal protection orders; service of a personal protection order on respondent; require before sending firearm restriction notice. <b>(Rep. B. Patterson)</b>
200	5299		Yes	12/27	12/27	4/1/02 #	<b>CIVIL PROCEDURE</b> ; Personal protection orders; enforceability of domestic relationship personal protection orders in foreign jurisdictions; allow and prohibit issuance of personal protection orders against certain minors. <b>(Rep. D. Bovin)</b>
201	5300		Yes	12/27	12/27	4/1/02 #	<b>CIVIL PROCEDURE</b> ; Personal protection orders; enforceability of certain personal protection orders in foreign jurisdictions; allow. <b>(Rep. R. Johnson)</b>
202	5303		Yes	12/27	12/27	4/1/02 #	<b>COURTS</b> ; Circuit court; filing fees for motions to show cause for violation of foreign protection orders; prohibit. <b>(Rep. M. Mortimer)</b>

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203		721	No	12/27	12/27	10/1/02 #	<b>LAW ENFORCEMENT;</b> Fingerprinting; law requiring procurement of fingerprints upon arrest or conviction for crimes; include criminal contempt and make other revisions. ( <b>Sen. V. Garcia</b> )
204		722	No	12/27	12/27	10/1/02 #	<b>CRIMINAL PROCEDURE;</b> Records; report to state police of conviction of a crime; include conviction for criminal contempt and make other revisions. ( <b>Sen. M. Goschka</b> )
205		725	No	12/27	12/27	04/01/02	<b>COURTS;</b> Records; sealing of certain records; allow. ( <b>Sen. K. Sikkema</b> )
206		729	Yes	12/27	12/27	4/1/02#	<b>CRIMES;</b> Domestic violence; full faith and credit provision of the federal violence against women act; implement. ( <b>Sen. B. Hammerstrom</b> )
207		731	Yes	12/27	12/27	04/01/02	<b>CRIMINAL PROCEDURE;</b> Records; reports of certain domestic violence incidents; require by law enforcement agencies. ( <b>Sen. W. Van Regenmorter</b> )
208		735	Yes	12/27	12/27	04/01/02	<b>CRIMES;</b> Domestic violence; issuance of appearance ticket for certain domestic violence violations; prohibit, and prohibit release on bail for certain stalking violations. ( <b>Sen. B. Bullard Jr.</b> )
209		753	Yes	12/27	12/27	4/1/02 #	<b>CRIMINAL PROCEDURE;</b> Arrests; warrantless arrest by peace officer for violation of a foreign personal protection order; authorize. ( <b>Sen. S. Johnson</b> )
210		754	Yes	12/27	12/27	4/1/02 #	<b>CRIMINAL PROCEDURE;</b> Other; definition of "domestic violence incident" to include the violation of a foreign protection order; expand and require use of standard domestic violence form for reports of domestic violence. ( <b>Sen. B. Hammerstrom</b> )

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211		757	Yes	12/27	12/27	4/1/02 #	<b>CRIMES;</b> Domestic violence; juvenile code enforcement of foreign personal protection orders against minor respondents; provide for. ( <b>Sen. B. Hammerstrom</b> )
212		758	No	12/27	12/27	4/1/02 #	<b>CRIMES;</b> Domestic violence; warrantless arrests for violation of foreign protection orders contained within probation orders and conditional release orders; authorize. ( <b>Sen. S. Johnson</b> )
213		677	Yes	12/27	12/27	12/27/01	<b>TRAFFIC CONTROL;</b> Civil infraction procedures; secondary road patrol and training fund assessment; increase. ( <b>Sen. P. Hoffman</b> )
214		808	Yes	12/27	12/27	12/27/01	<b>TRAFFIC CONTROL;</b> Civil infraction procedures; fines in civil infraction actions under vehicle code; prohibit waiver under certain circumstances. ( <b>Sen. D. Koivisto</b> )
215	5317		Yes	12/27	12/27	01/01/02	<b>INCOME TAX;</b> Other; penalty provision of tax deferred education savings account; clarify, revise definitions, and other technical changes. ( <b>Rep. G. DeRossett</b> )
216	5148		Yes	12/27	12/28	12/28/01	<b>TRAFFIC CONTROL;</b> Driver license; notification on driver license regarding designation of patient advocate or emergency medical information; provide for. ( <b>Rep. J. Allen</b> )
217	4621		Yes	12/27	12/28	12/28/01	<b>ECONOMIC DEVELOPMENT;</b> Enterprise zones; neighborhood enterprise zone definition and sunset; modify. ( <b>Rep. R. Richardville</b> )
218	5146		Yes	12/27	12/28	12/28/01	<b>HEALTH FACILITIES;</b> Nursing homes; clinical process guidelines for nursing home surveyors; establish. ( <b>Rep. J. Voorhees</b> )
219	5255		Yes	12/27	12/28	12/28/01	<b>HEALTH FACILITIES;</b> Hospitals; availability of hospice and palliative care; require to notify patient or patient's representative upon request. ( <b>Rep. A. Hardman</b> )

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220		105	Yes	1/2	1/2	01/02/02	<b>STATE;</b> Funds; state water pollution control revolving fund; allow for a portion of budget stabilization fund to be transferred under certain circumstances. ( <b>Sen. K. Sikkema</b> )
221		106	Yes	1/2	1/2	01/02/02	<b>STATE;</b> Funds; criteria for use of state water pollution control revolving fund; revise to provide certain incentives to qualify. ( <b>Sen. M. Goschka</b> )
222		109	Yes	1/2	1/2	01/02/02	<b>TORTS;</b> Governmental immunity; municipal liability for damages caused as a result of the backup of a sewer system; provide under certain circumstances. ( <b>Sen. S. Johnson</b> )
223		331	No	1/2	1/2	03/22/02	<b>LIQUOR; Licenses;</b> club licenses; allow for-profit clubs to apply for "private" license. ( <b>Sen. G. Steil</b> )
224		490	Yes	1/2	1/2	01/02/02	<b>SINGLE BUSINESS TAX;</b> Exemptions; portion of tax base attributable to multiple employer welfare dental arrangements; exempt from tax base. ( <b>Sen. B. Bullard Jr.</b> )
225		502	No	1/2	1/2	04/01/02	<b>AERONAUTICS;</b> Airports; firearms in sterile area of commercial airport property; prohibit. ( <b>Sen. P. Hoffman</b> )
226		666	Yes	1/2	1/2	01/02/02	<b>INSURANCE;</b> Life; certain valuations; provide for. ( <b>Sen. B. Bullard Jr.</b> )
227		819	Yes	1/2	1/2	01/02/02	<b>NATURAL RESOURCES;</b> Soil; soil erosion and sedimentation control; allow universities to administer on campus. ( <b>Sen. K. Sikkema</b> )
228	5313		Yes	1/2	1/2	03/01/02	<b>INSURANCE;</b> Other; producer licensing model act; enact. ( <b>Rep. A. Sanborn</b> )
229	5474		Yes	1/3	1/3	1/3/02 #	<b>SINGLE BUSINESS TAX;</b> Tax base; definition of sales; revise to exclude certain royalties. ( <b>Rep. G. DeRossett</b> )

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
230		486		1/3	1/3	1/3/02 #	<b>SINGLE BUSINESS TAX;</b> Deductions; treatment of certain royalties received by and paid by franchisees and franchisors; revise. <b>(Sen. B. Hammerstrom)</b>
231	5260		Yes	1/3	1/3	*** #	<b>HEALTH;</b> Pharmaceuticals; official prescription program; eliminate and establish electronic reporting system for the monitoring and prescribing of schedule 2 controlled substances. <b>(Rep. T. George)</b>
232	5261		Yes	1/3	1/3	1/3/02 #	<b>HEALTH;</b> Pharmaceuticals; pain management education and controlled substances electronic monitoring and antidiversion fund; establish and abolish the official prescription form program fund. <b>(Rep. P. DeWeese)</b>
233	5262		Yes	1/3	1/3	*** #	<b>HEALTH;</b> Pharmaceuticals; controlled substances definitions; revise to conform with repeal of official prescription program. <b>(Rep. S. Ehardt)</b>
234	5263		Yes	1/3	1/3	01/03/02	<b>HEALTH;</b> Other; references to “intractable” pain in statute creating advisory committee on pain and symptom management; eliminate. <b>(Rep. C. Williams)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2002 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

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*(i) Other official information considered necessary or appropriate by the office of regulatory reform.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
(2002 RULE FILINGS)

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R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue
325.60151	*	1	423.135	A	1	423.182	A	1
325.77101	*	1	423.136	A	1	423.183	A	1
338.1555	A	1	423.137	A	1	423.184	A	1
418.101002	*	1	423.138	A	1	423.191	A	1
418.10107	*	1	423.141	A	1	423.192	A	1
418.10115	*	1	423.142	A	1	423.193	A	1
418.10116	*	1	423.143	A	1	423.194	A	1
418.10117	*	1	423.144	A	1	423.401	R	1
418.10202	*	1	423.145	A	1	423.403	R	1
418.10205	*	1	423.146	A	1	423.405	R	1
418.10405	R	1	423.147	A	1	423.407	R	1
418.10406	R	1	423.148	A	1	423.411	R	1
418.10407	R	1	423.149	A	1	423.421	R	1
418.10411	R	1	423.149a	A	1	423.422	R	1
418.10415	R	1	423.149b	A	1	423.423	R	1
418.10501	R	1	423.151	A	1	423.431	R	1
418.10502	R	1	423.152	A	1	423.432	R	1
418.10503	R	1	423.153	A	1	423.433	R	1
418.10901	*	1	423.154	A	1	423.434	R	1
418.10904	*	1	423.155	A	1	423.435	R	1
418.10909	A	1	423.156	A	1	423.441	R	1
418.10912	*	1	423.157	A	1	423.442	R	1
418.10916	*	1	423.158	A	1	423.443	R	1
418.10918	R	1	423.161	A	1	423.444	R	1
418.10923	*	1	423.162	A	1	423.445	R	1
418 101005	A	1	423.163	A	1	423.446	R	1
423.101	A	1	423.164	A	1	423.447	R	1
423.102	A	1	423.165	A	1	423.448	R	1
423.103	A	1	423.166	A	1	423.449	R	1
423.104	A	1	423.167	A	1	423.450	R	1
423.105	A	1	423.171	A	1	423.451	R	1
423.121	A	1	423.172	A	1	423.452	R	1
423.122	A	1	423.173	A	1	423.453	R	1
423.123	A	1	423.174	A	1	423.454	R	1
423.124	A	1	423.175	A	1	423.455	R	1
423.131	A	1	423.176	A	1	423.456	R	1
423.132	A	1	423.177	A	1	423.461	R	1
423.133	A	1	423.178	A	1	423.462	R	1
423.134	A	1	423.179	A	1	423.463	R	1
			423.181	A	1	423.464	R	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2002 MR Issue
423.465	R	1
423.466	R	1
423.467	R	1
423.468	R	1
423.469	R	1
423.470	R	1
423.471	R	1
423.472	R	1
423.481	R	1
423.482	R	1
423.483	R	1
423.484	R	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)





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